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## **PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	1 February 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 753 final
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the quality of water intended for human consumption (recast)

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Delegations will find attached document COM(2017) 753 final.

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Encl.: COM(2017) 753 final



Brussels, 1.2.2018  
COM(2017) 753 final

2017/0332 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the quality of water intended for human consumption (recast)**

(Text with EEA relevance)

{SWD(2017) 448 final} - {SWD(2017) 449 final} - {SWD(2017) 451 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

Most people living in the EU enjoy very good access to high quality drinking water, especially compared to some other regions in the world. This is the result of a long tradition of drinking water management in many European Member States, but is also in large measure thanks to European environmental legislation and EU funding<sup>1</sup>. Since the 1980s, the EU has applied rules that require stringent water safety checks. This means that urban waste water is collected and treated, industrial emissions are safely managed, the use of chemicals is approved under strict conditions and a holistic approach is taken to managing water bodies across borders. While in some cases high initial investments or competing priorities meant these rules could not be put into practice within agreed timelines, water management has continued to improve, and the Commission and the Member States are now making a joint, concerted effort to fully implement the rules as soon as possible<sup>2</sup>.

There is one piece of legislation, Council Directive 98/83/EC on the quality of water intended for human consumption<sup>3</sup>, that needs to be singled out since it is designed specifically to protect people from the adverse effects of drinking contaminated water by ensuring that it is wholesome and clean. In general, the Directive has been relatively well implemented by Member States, but its approach to monitoring quality at the point of consumption uses parameters determined over 20 years ago. This calls for an examination of whether the Directive deals effectively with existing and emerging pressures and ensures that people living in and visiting European Union countries can continue to enjoy high-quality drinking water for decades to come.

Drinking water is clearly high in the minds of many Europeans. Drinking water was the focus of the first ever European citizens' initiative 'Right2Water'<sup>4</sup>, which collected over 1.8 million signatures and to which the Commission responded positively. The initiative was submitted to the Commission in December 2013, and urged in particular that '*EU institutions and Member States be obliged to ensure that all inhabitants enjoy the right to water and sanitation*' and that '*the EU increase its efforts to achieve universal access to water and sanitation*'. In its response<sup>5</sup>, the Commission invited Member States to do everything they can to ensure everyone has access to a minimum water supply. This is fully in line with the Agenda 2030, in particular Sustainable Development Goal 6 and the associated target to '*achieve universal and equitable*

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<sup>1</sup> Several Member States have met their basic needs in terms of water services with the help of cohesion policy funds. In the 2014-2020 period, EU cohesion policy will invest 14.8 billion EUR in the water sector. Among other expected results, more than 12 million people will be served by improved water supply.

<sup>2</sup> As demonstrated in the latest cycle of the Environmental Implementation Review, available at: [http://ec.europa.eu/environment/eir/index\\_en.htm](http://ec.europa.eu/environment/eir/index_en.htm).

<sup>3</sup> Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

<sup>4</sup> ECI Right2Water: <http://www.right2water.eu/>.

<sup>5</sup> COM(2014)177 final.

*access to safe and affordable drinking water for all*, which were adopted in 2015<sup>6</sup>. The Commission also committed to reviewing the Directive, which was included as a result in the Commission's Regulatory Fitness and Performance Programme (REFIT)<sup>7</sup>. The proposal therefore directly follows up on the European citizens' initiative 'Right2Water'.

The revision is also part of the plan to transition to a circular economy<sup>8</sup>. The revised proposal will help Member States manage drinking water in a resource-efficient and sustainable manner, thereby helping to reduce energy use and unnecessary water loss. It will also help reduce the number of plastic bottles we use by improving people's confidence in tap water.

The Commission started this process by first evaluating the Directive, in line with Better Regulation principles<sup>9</sup>. The results of the evaluation were published on 1 December 2016<sup>10</sup> and helped identify the Directive's strengths and weaknesses. They confirmed that the Directive is the relevant tool to ensure the high quality of the water consumed in the EU, because its basic purpose is to enforce drinking water monitoring and ensure that Member States restore required water quality levels in case of issues.

However, the evaluation identified four areas with room for improvement:

- the list of parameters;
- the use of the risk-based approach;
- increased transparency on water-related issues and giving consumers access to up-to-date information; and
- materials in contact with drinking water.

The accompanying impact assessment also looked at the point raised in the European citizens' initiative and consultations that parts of the population, for instance vulnerable and marginalised groups such as Roma in particular, have no access to drinking water. On the basis of the results of the impact assessment, this legislative proposal offers proportionate answers to these issues.

- **Consistency with existing policy provisions in the policy area**

The proposal is a recast of Directive 98/83/EC, which was amended in 2003, 2009 and 2015. In the interest of clarity, a recast is considered most appropriate. It is in line with the commitment made in the Interinstitutional Agreement of 13 April 2016 on Better Law Making<sup>11</sup> to use the legislative technique of recasting more frequently when modifying existing legislation.

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<sup>6</sup> United Nations General Assembly Resolution of 25 September 2015 "Transforming our world: the 2030 Agenda for Sustainable Development".

<sup>7</sup> Commission Work Programme 2015 (COM(2014) 910 final).

<sup>8</sup> COM(2015) 614 final.

<sup>9</sup> [https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox\\_en](https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en)

<sup>10</sup> Staff Working Document on the REFIT Evaluation of the Drinking Water Directive 98/83/EC SWD(2016) 428 final.

<sup>11</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

Overall, the proposal is consistent with the EU's established legislation in the field of water, especially the Water Framework Directive<sup>12</sup>, the Marine Strategy Framework Directive<sup>13</sup>, the Urban Waste Water Treatment Directive<sup>14</sup> and the Nitrates Directive<sup>15</sup>. The proposal in particular complements Articles 6, 7 and 8 of the Water Framework Directive that concern the requirements to identify and monitor the water bodies used for abstraction of drinking water and to designate protected areas covering those water bodies. Furthermore, it complements Article 11 of that Directive, requiring Member States to establish programmes of measures, including measures aimed at protecting the abstraction areas for drinking water.

Water after the point of compliance is considered as 'food' under Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law<sup>16</sup>. It is therefore proposed that provisions related to 'water put into bottles and containers and intended for sale' be removed from the scope of Directive 98/83/EC, as any bottled drinking water will fall under the scope of Regulation (EC) No 178/2002 after the point of compliance.

Concerning specific categories of water put into bottles, natural mineral waters are exempted from the scope of this Directive in accordance with Directive 2009/54/EC of the European Parliament and of the Council<sup>17</sup>. However, in accordance with the third subparagraph of Article 9(4) Directive 2009/54/EC, spring waters should comply with the provisions of this Directive. Therefore, spring waters should remain in the scope of this Directive.

- **Consistency with other Union policies**

The revision of Directive 98/83/EC was included in the 2017 Commission Work Programme as a new initiative<sup>18</sup> that will help implement the Action Plan for the Circular Economy. The proposal contains elements that support the sustainable management of drinking water in a resource-efficient manner and that will help reduce bottled water consumption. This is consistent with the EU's efforts to reduce greenhouse gas emissions and marine litter<sup>19</sup> and the European Strategy for Plastics<sup>20</sup>.

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<sup>12</sup> 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).

<sup>13</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (OJ L 164, 25.6.2008, p. 56).

<sup>14</sup> Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, 30.5.1991, p. 40).

<sup>15</sup> Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1).

<sup>16</sup> Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

<sup>17</sup> Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (Recast) (OJ L 164, 26.6.2009, p. 45).

<sup>18</sup> Commission Work Programme 2017 (COM(2016) 710 final).

<sup>19</sup> Our Oceans, Seas and Coasts: [http://ec.europa.eu/environment/marine/good-environmental-status/descriptor-10/index\\_en.htm](http://ec.europa.eu/environment/marine/good-environmental-status/descriptor-10/index_en.htm).

<sup>20</sup> Commission Communication COM(2018)28 final of 16.1.2018 A European Strategy for Plastics in a Circular Economy.

The proposal also contributes to the effort to reduce administrative burden and to design policies that are as effective and efficient as possible, in line with the Commission Communication on Better Regulation<sup>21</sup>. Updating standards and taking a more holistic risk management approach should also help maintain the competitiveness of the EU's water sector and stimulate innovation. The proposal also aims to simplify monitoring and reporting processes, with a focus on automation, less frequent reports and more relevant data. This is in line with the EU's Better Regulation approach and the Fitness Check on Reporting and Monitoring<sup>22</sup>. Provisions to improve citizens' access to information on their drinking water also tie in with the Commission's Digital Market Strategy<sup>23</sup>.

The proposal will also help achieve priority objective 3 of the 7<sup>th</sup> Environment Action Programme to 2020: 'To safeguard the Union's citizens from environment-related pressures and risks to health and well-being'<sup>24</sup>. It also fits under priority objective 4, which requires that the public has access to clear environmental information at national level. To that end, the proposal makes cross-references and guarantees consistency with the requirements of Directive 2003/4/EC<sup>25</sup> and the INSPIRE Directive<sup>26</sup>.

Deleting the rules on materials in contact with drinking water (Article 10 of Directive 98/83/EC) will ensure greater consistency with internal market legislation and, in particular, with the Construction Products Regulation<sup>27</sup>. The impact assessment concluded that the current article, which implies mutual recognition between Member States and involves legal uncertainty, constitutes a possible obstacle to the internal market. It is proposed that a new article on Domestic Distribution risk assessment take over some of the obligation formerly contained in Article 10 of Directive 98/83/EC and that, in parallel, a standardisation mandate be issued under the Construction Products Regulation, to set requirements applicable to construction materials and products in contact with drinking water. The removal of technical barriers for construction products may only be achieved by the establishment of harmonised technical specifications for the purposes of assessing the performance of construction products, hence the necessity to establish and publish the necessary harmonised standards in the Official Journal of the European Union under Regulation (EU) No 305/2011.

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<sup>21</sup> Commission Communication 'Better Regulation: Delivering better results for a stronger Union', COM(2016)615 final.

<sup>22</sup> Fitness Check on Reporting and Monitoring of environment legislation: [http://ec.europa.eu/environment/legal/reporting/fc\\_overview\\_en.htm](http://ec.europa.eu/environment/legal/reporting/fc_overview_en.htm) and COM(2017) 312 final: [http://ec.europa.eu/environment/legal/reporting/pdf/action\\_plan\\_env\\_issues.pdf](http://ec.europa.eu/environment/legal/reporting/pdf/action_plan_env_issues.pdf).

<sup>23</sup> Digital Market Strategy: <https://ec.europa.eu/digital-single-market/en/policies/shaping-digital-single-market>.

<sup>24</sup> Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

<sup>25</sup> Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

<sup>26</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

<sup>27</sup> Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

Security aspects are dealt with under other Union policies, in particular Directive (EU) 2016/1148 concerning measures for a high common level of security of network and information systems across the Union<sup>28</sup> ('NIS Directive'). The Commission has also adopted in October 2017 an Action Plan to step up EU-level preparedness, resilience and coordination against attacks involving chemical, biological, radiological and nuclear (CBRN) substances.

Lastly, the proposal is also answering the European Citizens' initiative by requiring Member States to ensure access to water for vulnerable and marginalised groups. This will also help implement EU policy on Roma integration within the EU Framework for National Roma Integration Strategies<sup>29</sup> and the Council Recommendation on effective Roma integration measures in the Member States<sup>30</sup>.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

The proposal is based on Article 192(1) of the Treaty on the Functioning of the European Union (ex-Article 130s of the Treaty establishing the European Community). This is the same legal basis as the directive being recast.

### **• Subsidiarity (for non-exclusive competence)**

The EU has shared competence with Member States to regulate environment and health in the water sector. This means that the EU can only legislate as far as the Treaties allow it, and must observe the principles of necessity, subsidiarity and proportionality.

The objectives of the Directive, namely to protect human health from the adverse effects of any contamination of water intended for human consumption, will be achieved by setting minimum quality standards at EU level as well as setting minimum requirements for monitoring, reporting, access to water, transparency and remedial action when these standards are not met. Member States may determine which concrete action (for example, type of remedial measures, actual monitoring programmes) they wish to take.

The revision of the Directive was originally triggered by the European citizens' initiative 'Right2Water', supported by more than 1.8 million signatories. Action at EU level to ensure access to drinking water was also demanded by the European Parliament in its response to the initiative<sup>31</sup> and in response to the EU's commitment to the UN Sustainable Development Goals<sup>32</sup>. This proposal therefore sets general rules at EU level, within the remit of the EU's

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<sup>28</sup> Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

<sup>29</sup> COM(2011) 173 final.

<sup>30</sup> Council Recommendation (2013/C 378/01) of 9 December 2013 on effective Roma integration measures in the Member States (OJ C 378, 24.12.2013, p. 1).

<sup>31</sup> European Parliament resolution of 8 September 2015 on the follow-up of the ECI 'Right2Water'.

<sup>32</sup> The Sustainable Development Goals, European Commission (2017): [https://ec.europa.eu/europeaid/policies/sustainable-development-goals\\_en](https://ec.europa.eu/europeaid/policies/sustainable-development-goals_en).

powers and in full respect of subsidiarity, but allows Member States a margin of discretion in deciding how to implement the obligation to improve access to safe drinking water.

Lastly, the REFIT evaluation also confirmed the added value of drinking water legislation at EU level since, over time, it can help greatly in harmonising water quality across Europe. This was shown, for instance, by Member States, particularly smaller ones, that do not always have the resources and specific expertise, expecting the EU to continue to set the essential chemical and microbiological parameters and related values for drinking water. Many stakeholders have also insisted that EU measures are the best way to address emerging health hazards from water.

The scale and effects of the action set out in the Directive mean its objectives are better achieved at EU than at national level.

- **Proportionality**

The accompanying impact assessment provides more details on the proportionality and cost-effectiveness of the options in this legislative proposal. Overall, it demonstrated that the most suitable and most cost-effective measures that could be taken at EU level when revising the Directive were:

- (a) reviewing and updating the list of parameters in the Directive in line with newest scientific findings whilst introducing the risk-based approach for large and small water suppliers;
- (b) improving rules on transparency and access to up-to-date information for consumers;
- (c) improving and simplifying reporting;
- (d) removing obstacles that prevent the free trade in materials in contact with drinking water;
- (e) improving access to safe drinking water.

- **Choice of the instrument**

This proposal substantially amends Directive 98/83/EC and adds many new provisions. In the interest of clarity, it is proposed to use the recasting method. Given that the instrument being recast is a Directive, for reasons of consistency of legal drafting and to facilitate Member States transposition of the act, this proposal is also for a Directive.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

The Commission has evaluated the performance of Directive 98/83/EC against five criteria:

- effectiveness;
- efficiency;
- coherence;
- relevance; and



– EU added value.

The evaluation was conducted back-to-back with the impact assessment study, and the problem areas identified in the evaluation are reflected in the problem definitions and policy options in the impact assessment.

The evaluation concluded that the Directive is *effective* in achieving its objectives and helping to protect human health from the adverse effects of contamination by ensuring a high level compliance with the parametric values. However, the relevance of compliance rates measured against partly outdated parameters is somewhat limited. It also found that Article 10 of the Directive concerning ‘materials in contact with drinking water’ leaves Member States too much flexibility in determining what ‘necessary measures’ are. This led to additional tests and controls when placing a product on the market of another Member State, which made the provision ineffective.

The *efficiency* analysis estimated the total cost for supplying drinking water in the EU in 2014 at roughly EUR 46.5 billion. EUR 8.3 billion of this can be attributed to the implementation of the Directive. Although the health benefits resulting from the Directive could not be quantified<sup>33</sup>, the evaluation found that total attributable benefits significantly outweigh total attributable costs. It did not find any provisions causing excessive administrative costs related to monitoring, information provision and reporting. Only the flexibility under Article 10 of Directive 98/83/EC (as explained above) was found to be a significant unnecessary burden for industry.

The *coherence* of Directive 98/83/EC with the Water Framework Directive is especially important as protecting drinking water resources is an indispensable part of the plans and measures under the Water Framework Directive. Directive 98/83/EC does not refer to the protection of water resources to be used for the abstraction of drinking water mainly because it preceded the Water Framework Directive. This missing link must be made to ensure the polluter pays principle and the precautionary principle both apply. The proposal will therefore help improve coherence between the two Directives by introducing the risk-based approach from abstraction to tap, and improving exchanges and communication between Member States’ authorities and water suppliers to ensure there is a full governance cycle for water.

With regard to *relevance*, the evaluation found the parametric values set in Directive 98/83/EC are no longer appropriate as they do not reflect scientific progress, better risk assessments, changed consumer behaviour and new environmental pressures.

The EU *added value* of Directive 98/83/EC is that it ensures the same level of protection of human health from adverse effects of any contamination across the whole EU. Anecdotally, fewer major drinking water incidents were observed in the EU than in other regions of the world — however, this cannot demonstrably be linked to the existence of Directive 98/83/EC.

The main areas for improvement identified in the evaluation were therefore:

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<sup>33</sup> In the Impact Assessment it was found that quantification via proxies is possible.

- the list of parameters;
- the lack of a risk-based approach;
- the lack of transparency and lack of access to up-to-date information for consumers; and
- materials in contact with drinking water.
- **Stakeholder consultations**

In accordance with the Better Regulation Guidelines<sup>34</sup>, several consultation activities took place.

- Open public consultation on the basis of online questionnaire

Following the European citizens' initiative on the right to water (Right2Water)<sup>35</sup>, between June and September 2014 the Commission performed an open public consultation in all languages on the quality of drinking water. The consultation received 5 908 answers and 138 opinions and position papers from key stakeholders. In addition, in September 2014 and in October 2015 the Commission held meetings with stakeholders to discuss transparency and benchmarking.

- Targeted public consultations

The Commission organised three targeted public stakeholder consultation conferences: in May 2015 for the REFIT evaluation, in December 2015 for the impact assessment, and in September 2016 on the review of the drinking water standards. These reached a wide range of stakeholders, including national and regional authorities, representatives of industry, business associations and companies, and experts. The conferences gathered a variety of views and allowed the Commission to have discussions directly with the stakeholders. Specific working documents or questionnaires were issued for all the conferences, and all presentations and minutes, including participants' lists, were made publicly available<sup>36</sup>.

- REFIT feedback mechanism

After the 'Inception Impact Assessment' was published on the Better Regulation website on 28 February 2017, stakeholders were given until 28 March 2017 to provide feedback on that document.

- Additional consultations

On several other occasions the Commission informed stakeholders of the revision and invited them to comment, for example in January 2016 at a well-attended Paramount Seminar on drinking water protection, or at discussions in various expert group meetings. To ensure the

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<sup>34</sup> Notably toolboxes 10 and 50 on the 12-week internet-based public consultation and on the complement approaches and tools in order to engage all relevant stakeholders and to target potential information gaps, which was done by subsequent targeted stakeholder consultations.

<sup>35</sup> ECI Right2Water: <http://www.right2water.eu/>.

<sup>36</sup> Meeting of 23 September 2016: <https://circabc.europa.eu/w/browse/c8a02539-ab12-48b6-9367-38e40cafd6cb>; Meeting of 26 May 2015: <https://circabc.europa.eu/w/browse/ca2f82a5-20ab-4106-9c44-7b67a911ac2f>; and Meeting of 8 December 2015: <https://circabc.europa.eu/w/browse/3fccab4b-812d-46be-8efe-1f866cf556c5>.

process was as transparent as possible, all relevant documents which fed into the revision, such as the impact assessment supporting study, were made publicly available<sup>37</sup>.

The consultations clearly supported updating and revising the list of parameters. The public consultation overwhelmingly favoured the list including endocrine disrupting compounds, substances used in consumer products and pharmaceuticals, whereas many technical experts disagreed. Most stakeholders favoured the EU-wide implementation of a risk-based approach. Nevertheless, they wanted to ensure that Member States would have sufficient flexibility in this regard. The need for harmonisation regarding materials and products in contact with drinking water was continuously pointed out by a range of stakeholders.

A strong message from the public consultation, especially from citizens, was the wish for more up-to-date online information on the quality of drinking water. Consumers feel insecure about tap water when abroad in the EU and, although compliance rates are high, they are generally rather reluctant to trust it. Opinions varied regarding whether the Directive should include rules on access to water. Those against argued that access to water would be outside the scope of the Directive and should therefore be addressed under other EU legislation, or elsewhere.

- **Collection and use of expertise**

The legal proposal and the impact assessment are based on a vast body of material and studies, as referenced in the Impact Assessment Staff Working Document.

In December 2015, a cooperation project was launched with the WHO Regional Office for Europe to support the revision of Annex I to Directive 98/83/EC (list of parameters to be included in the Directive). The project was concluded in summer 2017<sup>38</sup>. More details about the recommendations of this project and how they were used in this Commission's proposal are included in Section 5 'Other Elements'.

Several studies were conducted by external parties commissioned to assess the revision of the Directive. These studies included:

- a Material Guidance for Users and Plumbers<sup>39</sup>;
- the Study Report on Products and Materials in contact with Drinking Water<sup>40</sup>; and
- the Impact Assessment Study<sup>41</sup>.

The Impact Assessment Study conducted by independent external parties also used a modelling tool to assess policy options and preferred policy packages.

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<sup>37</sup> <https://circabc.europa.eu/w/browse/4fea449b-0b66-4f0f-b934-0177cae4d7e2>

<sup>38</sup> [http://ec.europa.eu/environment/water/water-drink/review\\_en.html](http://ec.europa.eu/environment/water/water-drink/review_en.html)

<sup>39</sup> <http://publications.europa.eu/s/c6vG>.

<sup>40</sup> [https://circabc.europa.eu/d/a/workspace/SpacesStore/0b93e708-5e20-4c35-8fbd-8554a87e7cb5/09 %20-%201.1 %20Study%20Report%20-%20Products-Materials%20in%20contact%20with%20Drinking%20Water.pdf](https://circabc.europa.eu/d/a/workspace/SpacesStore/0b93e708-5e20-4c35-8fbd-8554a87e7cb5/09%20-%201.1%20Study%20Report%20-%20Products-Materials%20in%20contact%20with%20Drinking%20Water.pdf).

<sup>41</sup> <http://publications.europa.eu/s/c6vH>.

- **Impact assessment**

The proposal is based on an impact assessment, which received a positive opinion with reservations<sup>42</sup> from the Commission's Regulatory Scrutiny Board on 23 June 2017. The issues raised by the Regulatory Scrutiny Board were addressed in the revised version of the Impact Assessment Staff Working Document, in which a specific chapter details the changes made following the Regulatory Scrutiny Board's opinion. Based on the evaluation, the stakeholder consultations and the European citizens' initiative 'Right2Water', a number of policy options were developed to address each of the problem areas identified. The impact assessment examined the options to determine how far they could help achieve the Directive's overarching objective of protecting consumer health, their financial implications and their environmental impacts towards 2050. The findings are provided in the Impact Assessment Study and the Impact Assessment Staff Working Document.

The five policy options contain:

- options to adapt the parameter list of the Directive to newest standards through extension or limitation of the list;
- the adoption of the risk-based approach for large (and small) water suppliers;
- harmonisation of standards of materials in contact with drinking water;
- improving consumers' access to up-to-date information and better monitoring of implementation; and
- options to provide access to water.

The analyses and the consequent ranking of the options led to the conclusion that a combination of the different options would be the best way to address, in the long-term, all the problem areas identified in the evaluation. A combination of the options would ensure:

- high quality drinking water for everyone in the EU. Updating and improving the list of parameters based on the WHO's recommendations will also protect people from emerging hazards to human health;
- a more modern approach to monitoring, by using the risk-based approach for both large and small water suppliers;
- the modernisation, and hence simplification, of reporting provisions;
- that consumers are provided with up-to-date and relevant information;
- improved access to water, and the provision of access to water for vulnerable and marginalised groups.

The options were ranked and three policy packages were developed. Two of them (packages 2 and 3) were the preferred packages from the health and environmental viewpoints. The small increase in costs for both packages is legitimate and outweighed by the health benefits. Both policy packages provide answers to all four areas of improvement identified in the evaluation. In addition, policy package 3 substantially improves the situation for non-connected EU citizens since it addresses — with a separate option — the issue of access to water identified in

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<sup>42</sup> [http://ec.europa.eu/environment/water/water-drink/review\\_en.html](http://ec.europa.eu/environment/water/water-drink/review_en.html)

the European citizens' initiative 'Right2Water' and in SDG 6. This separate option covers a set of measures to improve access to water, but the related additional set-up costs are most probably overestimated as — in absence of more accurate data — they are based on the assumption that half of the non-connected citizens would be provided with individual treatment systems.

It was therefore decided that this legislative proposal should maintain the benefits of policy package 3 by introducing a general obligation to improve access to drinking water for everyone and to ensure access for vulnerable and marginalised groups, whilst leaving it up to the Member States to decide how to best improve access to water taking specific local situations into account. It is assumed that implementing those specific measures would be substantially cheaper than providing half of the non-connected citizens with alternative systems (as assumed in policy package 3).

This is in line with the principles of proportionality and subsidiarity as, while the general principle is set at EU level, Member States keep a wide margin of discretion in how to better ensure access to water.

In practice, it means that the costs and the impacts of the proposal will be between EUR 5.9 billion (policy package 2) and EUR 7.3 billion (policy package 3). These costs will mainly be borne by water operators. Consumers would see a very marginal increase in their household costs. However, this does not risk making drinking water unaffordable and could be offset by people drinking tap water rather than bottled water.

Administrative costs to national authorities were assessed as negligible or diminishing. For instance, simplified reporting requirements will lead to a EUR 0.35 million fall in annual operating costs.

Both policy packages have a positive impact on the environment because it is assumed that as consumer confidence in tap water increases, consumption of bottled water will fall. This will be stimulated further by providing all consumers with better access to up-to-date information. Furthermore, requiring large and small water suppliers to use the risk-based approach will lead to less need for treatment, and thus energy savings and fewer chemicals released into the environment. The risk-based approach should also improve the treatment of pollution at source and application of the polluter pays principle.

Requiring Member States to improve and provide a certain level of access to water will be a positive step towards meeting the targets of Sustainable Development Goal 6. It will also have the positive side-effect of creating jobs.

- **Regulatory fitness and simplification**

All of the options examined in the impact assessment either have a negligible impact on administrative burden or actually reduce it, mainly because most costs are borne by water operators and not by national authorities. In order to reduce administrative burden and simplify procedures, this proposal builds on the impact assessment by substantially reducing national reporting obligations to the Commission. Rather than requiring Member States to submit a report, they will have to establish data sets with their monitoring results only where they exceed

the parameters in the Directive. They will also have to provide additional information such as risk assessments. This is expected to save up to EUR 0.35 million per year.

To respect proportionality, small water suppliers will have longer than large and very large water suppliers to implement the risk-based approach. To avoid burdening small water suppliers, these will have to update on-line information less regularly than large and very large suppliers.

Finally, the proposed provisions on consumer information and transparency make the proposal ‘internet ready’ by requiring water suppliers to make extensive use of digital means to inform consumers of quality and hazards in relation to drinking water.

- **Fundamental rights**

As mentioned in the Commission Communication on the European citizens’ initiative ‘*Water and sanitation are a human right! Water is a public good, not a commodity!*’<sup>43</sup>, access to safe drinking water and sanitation is inextricably linked to the right to life and human dignity, as recognised by the Charter of Fundamental Rights of the European Union<sup>44</sup>, and to the need for an adequate standard of living. The Commission also underlined the importance of the human rights dimension of access to safe drinking water and committed to ensuring that this remains at the heart of its policies.

Over the last decade, international law has acknowledged a right to safe drinking water and sanitation, most prominently at UN level<sup>45</sup>. The UN General Assembly Resolution 64/292 recognises ‘*the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights*’. Moreover, in the final outcome document of the 2012 UN Conference on Sustainable Development (Rio+20), heads of State and Government and high level representatives reaffirmed their ‘*commitments regarding the human right to safe drinking water and sanitation, to be progressively realised for [their] populations with full respect for national sovereignty*’<sup>46</sup>. These commitments were reaffirmed in 2015 when the heads of State committed to Sustainable Development Goal 6 and its associated target, by 2030, of ‘*achieving universal and equitable access to safe and affordable drinking water for all*’.

At European level, the Parliamentary Assembly of the Council of Europe declared ‘*that access to water must be recognised as a fundamental human right because it is essential to life on earth and is a resource that must be shared by humankind*’<sup>47</sup>. The EU has also reaffirmed that ‘*all States bear human rights obligations regarding access to safe drinking water, which must be available, physically accessible, affordable and acceptable*’<sup>48</sup>.

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<sup>43</sup> COM(2014)177.

<sup>44</sup> OJ C 326, 26.10.2012, p. 391.

<sup>45</sup> UN General Assembly Resolution No 64/292 of 3.8.2010 and the UN Human Rights Council Resolutions 7/22 of 28.3.2008 and 15/9 of 6.10.10.

<sup>46</sup> <http://www.un.org/en/sustainablefuture/>.

<sup>47</sup> Resolution No 1693/2009 of the Parliamentary Assembly of the Council of Europe.

<sup>48</sup> Declaration by the High Representative, Catherine Ashton, on behalf of the EU to commemorate the World Water Day (Doc 7810/10), 22 March 2010.

The Commission took all this into account when developing its reply to the European citizens' initiative on the 'Right2Water' and this legislative proposal.

#### **4. BUDGETARY IMPLICATIONS**

The proposal does not have budgetary implications for the Commission. It is expected that it can be implemented under the existing allocations for the Commission and the European Environmental Agency and that no additional resources are needed.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Large suppliers will be expected to implement the risk-based approach within 3 years, while small water supplies will be given 6 years.

The Annexes will be reviewed regularly in the light of scientific and technical progress. To allow for two full 6-year cycles of data, the complete Directive will be evaluated 12 years after its transposition.

To ensure that the Directive achieves its objective of protecting human health from the adverse effects of contaminated drinking water, and to improve other areas in which the Directive was found to be less optimal, a number of different success indicators were suggested. These will be used for future evaluations and will be developed in cooperation with the European Environmental Agency, taking account of the findings of the Fitness Check<sup>49</sup> on environmental monitoring and reporting. The success indicators are:

- the number of 'incidents' (i.e. cases of potential danger to human health) and cases in which the limit values were exceeded in the EU. In the new reporting system, Member States will be asked to report in a more effective manner on these incidents and on the solutions provided;
  - the number of people in the EU with access to water intended for human consumption;
  - long-term health impacts due to the quality of the drinking water — this will require additional epidemiologic studies in conjunction with a specialised organisation such as the WHO;
  - the new transparency requirements and minimum information to be available online, for example the leakage rates in the networks. This will allow a systematic analysis of implementation levels and achievements.
- **Explanatory documents (for directives)**

Considering the scope of the proposal and the fact that it is a recast of an existing directive (Directive 98/83/EC), which all Member States have transposed in full, it is neither justified nor proportionate to require explanatory documents on the transposition.

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<sup>49</sup> Fitness Check on Reporting and Monitoring of environment legislation: [http://ec.europa.eu/environment/legal/reporting/fc\\_overview\\_en.htm](http://ec.europa.eu/environment/legal/reporting/fc_overview_en.htm) and COM(2017) 312 final: [http://ec.europa.eu/environment/legal/reporting/pdf/action\\_plan\\_env\\_issues.pdf](http://ec.europa.eu/environment/legal/reporting/pdf/action_plan_env_issues.pdf).

- **Detailed explanation on how the WHO recommendations concerning parameters and parametric values for the proposal were taken into account**

The existing parametric values set in Annex I to Directive 98/83/EC are generally based on the World Health Organization Guidelines for drinking water. These Guidelines are regularly updated and were last amended in early 2017 by the first addendum to the fourth edition<sup>50</sup>.

There were already some differences between the WHO Guidelines and Directive 98/83/EC in setting parameters and their levels when the Directive was adopted in 1998. For example:

- the WHO Guidelines do not include standards for the group of pesticides, whereas the Directive includes all pesticides and their degradation products;
- WHO guideline values are associated with a lifetime cancer risk of  $10^{-5}$ , whereas the EU made a policy choice for a more precautionary approach by choosing a risk value of  $10^{-6}$  as acceptable.

In December 2015, the Commission and the WHO Regional Office for Europe concluded the ‘Drinking Water Parameter Cooperation Project’, the final report of which was published in 2018<sup>51</sup> (hereafter ‘the WHO report’). The objective of the project was to provide policy-relevant, science-based advice to inform the revision of Annex I to the Directive.

There is a high level of consensus between the WHO recommendations contained in the WHO report and the proposal. In particular, the recommendations confirm the need to regulate a list of selected parameters, of the hundreds of parameters for which WHO guideline values exist. The Commission has taken over the large majority of the recommended parameters and parametric values from this list, but on a few parameters has suggested a different approach. This section provides the reasoning as to why the Commission proposal does not follow the WHO recommendations in a few cases.

### **1. Parameters that the WHO recommended be removed from Annex I**

Because of their low occurrence in drinking water, usually due to pollution incidents, the WHO report recommended that five parameters be removed from the Directive:

- **benzene,**
- **cyanide,**
- **1,2-dichloroethane,**
- **mercury,** and
- **polycyclic aromatic hydrocarbons (PAHs).**

The WHO justified removing these parameters by explaining that they could still be monitored where necessary by Member States on the basis of the WHO guidance value. Stakeholders, and in particular Member States’ authorities, strongly advocated not to remove them for health reasons and also because of the necessity to have a binding value set at EU level. **It was**

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<sup>50</sup> The fourth edition of the Guidelines was published in 2011 and the first addendum to this fourth edition in early 2017.

<sup>51</sup> [http://ec.europa.eu/environment/water/water-drink/review\\_en.html](http://ec.europa.eu/environment/water/water-drink/review_en.html)



**therefore decided to keep them in Annex I.** However, the risk-based approach set out in the Directive allows water suppliers to remove a parameter from the list of substances to be monitored under certain conditions; water suppliers therefore have the right not to monitor those parameters if they are irrelevant in a supply zone. Last but not least, the treatment plants needed to meet these limit values have already been built.

## **2. Parametric values that the WHO recommended be raised**

The WHO report recommended updating the value for **antimony (up from 5 to 20 µg/l), boron (up from 1 to 2.4 mg/l) and selenium (up from 10 to 40 µg/l)** based on their latest available health-based guideline values as published in the first addendum to the fourth edition of the WHO Guidelines. However, since the current values have been in place for decades, it is assumed that there will be no increased costs as treatment techniques to meet these limit values are already in place. In any event, the risk-based approach allows water suppliers to remove a parameter from the list to be monitored under certain conditions. Therefore **original, stricter, values have been maintained in Annex I** to the Directive.

Concerning **boron** more specifically, some national derogations were granted in regions of high boron-bearing rocks where boron occurs naturally in groundwater. Requests to revise the value for boron also came from the European Parliament (E-9146/2016, P-0848/2016, E-10 109/2014). Although there is no recent official opinion, the European Food Safety Authority has in the past recommended<sup>52</sup> that — to protect all age groups — natural mineral water should not contain more than 1.5 mg boron.

## **3. New parameters recommended for inclusion by the WHO**

### **3.1 Chlorate and chlorite**

The WHO report recommended including **chlorate (ClO<sub>3</sub>) and chlorite (ClO<sub>2</sub>)** as new parameters and to set a value of 0.7 mg/l for both. Both are predominantly disinfection by-products using hypochlorite. The WHO recognised that this value may be too high, and remarked that, if it is feasible to meet lower values, then such lower values would be appropriate. One cause of the problem has been identified, namely that chlorate is generated in hypochlorite solutions that are not fresh and are stored for long periods, particularly at warm temperatures.

A specific European Food Safety Authority opinion of 2015<sup>53</sup> found that chlorate concentrations of 0.7 mg/kg in drinking water (the value proposed by the WHO), could lead to infants and toddlers being overexposed to chlorate. Further, the Agency found that chlorate can inhibit iodine uptake, although more human health data are needed on iodine uptake inhibition by chlorate. EFSA also referred to a Joint FAO/WHO Expert Committee on Food Additives (JECFA) that evaluated chlorate and derived a health-based value of 0.01 mg/kg of body weight

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<sup>52</sup> Opinion of 22 June 2005 the Scientific Panel on Contaminants in the Food Chain on a request of the Commission related to concentration limits for boron and fluoride in natural mineral waters [http://www.efsa.europa.eu/sites/default/files/scientific\\_output/files/main\\_documents/237.pdf](http://www.efsa.europa.eu/sites/default/files/scientific_output/files/main_documents/237.pdf)

<sup>53</sup> <https://www.efsa.europa.eu/en/efsajournal/pub/4135>

as a toxicological reference value for chronic risk assessment, which would give a drinking water value of 0.24 mg/l.

Therefore, the Commission considers that it is justified to set **the value for chlorate and chlorite at the stricter level of 0.25 mg/l, which is around 3 times lower than proposed by the WHO.**

### 3.2 Perfluorinated compounds

The WHO report recommended adopting parametric values for two individual perfluorinated substances: perfluorooctanesulfonic acid (PFOS) **should have a value of 0.4 µg/l** and perfluorooctanoic acid (PFOA) **a value of 4 µg/l.**

PFOS and PFOA were initially the most common perfluorinated compounds. They are found in groundwater primarily as a consequence of contamination of soil by fire-fighting foams, which break down to these and some other perfluorinated substances. However, they can also result from industrial point pollution, and stem from products with water- or grease-repellent material such as Teflon-coated saucepans, greaseproof paper, pizza grills, or waterproof and dirt-repellent outdoor sports equipment.

PFOS and PFOA are persistent, bioaccumulative and toxic substances. PFOS was originally included in the list of restricted substances in Annex XVII to the REACH Regulation<sup>54</sup>, but is now regulated as a persistent organic pollutant under Regulation (EC) No 850/2004<sup>55</sup>. PFOA, its salts and PFOA-related substances were added to the list of restricted substances in Annex XVII to the REACH Regulation on 14 June 2017<sup>56</sup> as the Commission considered that manufacturing, using or selling them leads to an unacceptable risk to human health and the environment.

Perfluorohexane-1-sulphonic acid and its salts (PFHxS) was added to the REACH candidate list of substances of very high concern on 7 July 2017 as a ‘very persistent and very bio-accumulative substance’ under Article 57(e) of the REACH Regulation.

However, there is a wider range of substances with varying chain lengths that can include perfluoroalkyl carboxylic acids (including PFOA), perfluoroalkane sulfonic acids (including PFOS), perfluoroalkane sulfinic acids, fluorotelomer alcohols and perfluoroalkane sulphonamides. PFOA and PFOS are the most common substances, but as they have been

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<sup>54</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1), hereafter ‘REACH Regulation’.

<sup>55</sup> Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7).

<sup>56</sup> Commission Regulation (EU) 2017/1000 of 13 June 2017 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards perfluorooctanoic acid (PFOA), its salts and PFOA-related substances (OJ L 150, 14.6.2017, p. 14).

substituted by similar per- and polyfluoroalkyl substances (PFASs) often with shorter chains, it is likely that PFOA and PFOS are no longer representative of this group of anthropogenic persistent chemicals<sup>57</sup>.

There is currently no legislative approach that regulates the whole group of these substances, and there is no conclusive list of all the substances available. Sweden has done intensive research on PFASs<sup>58</sup>. The Swedish National Food Agency has recommended limits for drinking water based on the presence of 11 PFASs (PFBS, PFHxS, PFOS, 6:2 FTSA, PFBA, PFPeA, PFHxA, PFHpA, PFOA, PFNA and PFDA). If the sum of these 11 PFASs occurs at concentrations greater than 0.09 µg/l, the Agency recommends measures be taken as soon as possible to reduce the pollution. The United States has health advisory levels for PFOA/PFOS of 0.07 µg/l. The priority substances list set under Directive 2008/105/EC<sup>59</sup> includes PFOS with a value of 0.00065 µg/l. This shows that lower parametric values than those recommended by the WHO are achievable. As these substances do not belong in the environment, a precautionary approach following the one used for pesticides in Directive 98/83/EC is suggested. The Commission therefore proposes deviating from the WHO recommendation of 4 µg/l (PFOA) and 0.4 µg/l (PFOS) for the two individual substances and instead regulating the whole group.

The proposal is to regulate the group of PFASs, as defined by the OECD<sup>60</sup>, and to suggest values of **0.1 µg/l for individual PFAS and 0.5 µg/l for PFASs in total**, as is done for pesticides. As these values are higher than those referred to in Sweden or the United States, it should be feasible to meet them.

#### 4. Endocrine disrupting compounds

The WHO did not propose guideline values for endocrine disrupting compounds (EDCs) but suggested that - since aquatic life is much more sensitive to the effects of oestrogenic EDCs than mammals, including humans - it would be possible to use precautionary benchmark values which are close to existing or possible future environmental quality standards, for the protection of aquatic life. The following three representative EDCs and benchmark values were proposed by the WHO:

- **beta-estradiol:** 0.001 µg/l;
- **nonylphenol:** 0.3 µg/l; and
- **bisphenol A:** 0.01 µg/l.

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<sup>57</sup> Example from Sweden shows decrease of PFOS in water:  
<http://www.sciencedirect.com/science/article/pii/S0013935117308976>

<sup>58</sup> <http://www.kemi.se/en/global/rapporter/2015/report-7-15-occurrence-and-use-of-highly-fluorinated-substances-and-alternatives.pdf>

<sup>59</sup> Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

<sup>60</sup> [https://www.oecd.org/env/ehs/risk-management/PFC\\_FINAL-Web.pdf](https://www.oecd.org/env/ehs/risk-management/PFC_FINAL-Web.pdf)

Even though the WHO indicated that currently there is no evidence of risks to health from drinking water, which is a minor source of exposure, and that such risks are unlikely, it was decided to include these parameters in the Directive on the basis of the precautionary principle.

The WHO does not recommend including the full range of EDCs in the parameter list under Annex I to the Directive, as it considers that routine monitoring for the full range of these compounds would currently be difficult, expensive and not effective at preventing contamination of drinking-water.

The three substances were chosen as benchmarks because they are known to be present in surface water sources impacted by treated sewage effluent and other discharges. Beta-estradiol is a natural oestrogen. The opinion of the Scientific Committee on Health and Environmental Risks<sup>61</sup> (SCHER) and related dossier identify the endocrine-disrupting properties as the key mechanism of action for the derivation of the environmental quality standard for this compound. The SCHER supported setting the environmental quality standard at 0.4 ng/l, which is close to the parametric value of 1 ng/l proposed for drinking water.

Bisphenol A is widely used in the manufacture of some plastics and epoxy resins. It is currently classified as reproductive toxicant category 1B under Regulation (EC) No 1272/2008<sup>62</sup>. Following proposals from the French authorities, first the use of bisphenol A in thermal paper has been restricted in the EU (December 2016), then bisphenol A was added to the REACH candidate list of substances of very high concern based on its harmonised classification as reprotox 1B (January 2017) and subsequently also based on its endocrine disrupting properties (June 2017).

Nonylphenol is a building block of alkylphenol ethoxylates used in surfactants, although these are now forbidden in the EU. Nonylphenol is also subject to restrictions (REACH Annex XVII) and was included in the REACH candidate list of substances of very high concern based on its endocrine disrupting properties (June 2013), and in the priority substances list set under Directive 2008/105/EC.

Therefore, it is proposed to follow the values suggested by the WHO for these three EDCs. As the Directive's approach does not provide for 'benchmark values', and does not specify the purpose of parameters and values, it is proposed including them in the list of parameters under Annex I. Furthermore, these compounds are relatively insoluble in water and are effectively removed by conventional adsorption treatment methods (e.g. bank filtration, coagulation, ozonation, granular activated carbon). The compounds will therefore be considered as any other chemical parameter under the Directive, meaning, as mentioned above, that water suppliers have the possibility to remove these parameters from the list to be monitored under certain conditions, if a risk assessment concludes they are irrelevant.

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<sup>61</sup> [https://ec.europa.eu/health/scientific\\_committees/environmental\\_risks/docs/scher\\_o\\_131.pdf](https://ec.europa.eu/health/scientific_committees/environmental_risks/docs/scher_o_131.pdf)

<sup>62</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

The Commission considers that including these three endocrine disrupting compounds under the Directive is justified on the basis of the precautionary principle. It is supported by stakeholders. Including these compounds will also help protect human health as part of the extended parameter list modelled by option 1.2 in the impact assessment.

## **5. Chromium and lead**

The WHO report recommends maintaining the current parametric value of **10 µg/l for lead and of 50 µg/l for chromium total**.

The WHO remarks that lead is one of few substances known to cause direct health impacts through drinking water, and that concentrations should be therefore as low as reasonably practical. To that end, the Commission therefore proposes lowering the value to **5 µg/l 10 years** after the entry into force of the Directive. During this transitional 10-year period, the current value of 10 µg/l will be maintained.

The WHO remarks that the value for chromium remains under review. Ongoing discussions with many toxicologists suggest introducing a lower value for chromium, and in particular for the more toxic Chromium VI. The Commission will therefore apply to chromium the same approach taken for lead. It proposes reducing the value by 50 % to **25 µg/l after a transition period of 10 years after the entry into force of the Directive**.

The proposal also provides for the regular review of Annex I (where these parametric values are set) and for the possibility to amend Annex I in the light of scientific progress. Therefore, there is a possibility to set stricter values for both these parameters before the end of the 10-year transitional period, should future scientific developments warrant it.

- **Detailed explanation of the specific provisions of the proposal**

### *Article 1 — Objective*

This Article remains unchanged.

### *Article 2 — Definitions*

The existing definitions have been slightly clarified and new definitions have been added ('water suppliers', 'priority premises', and 'vulnerable and marginalised groups'), in line with the new provisions in the Recast.

The WHO recommended the inclusion of a definition of priority premises, for the purposes of facilitating application of the new provisions related to domestic distribution risk assessment.

### *Article 3 — Exemptions*

The provisions remain unchanged, the references to the Directive are simply updated.

### *Article 4 — General obligations*

The Article remains largely unchanged, the changes relate to formal modifications or drafting clarifications.

#### *Article 5 — Quality standards*

The Article remains largely unchanged, the changes relate to formal modifications or drafting clarifications.

#### *Article 6 — Point of Compliance*

Paragraphs 2 and 3 have been deleted but are now mostly taken over under the new provisions on domestic distribution risk assessments (new Article 10).

#### *Article 7 — Risk-based approach to water safety (new)*

This new Article presents the overall risk-based approach, serves as an introduction to the new Articles 8, 9 and 10 and also introduces general obligations related to the risk assessments (regular updates and reviews and timelines for drawing up the risk assessments).

#### *Article 8 — Hazard assessment of bodies of water used for the abstraction of water intended for human consumption (new)*

This new Article introduces obligations related to carrying out hazard assessments, in particular:

- Identifying abstraction points,
- Identifying hazards and pollution sources,
- Monitoring parameters that are relevant to the hazards and pollution sources identified. Only relevant parameters or pollutants are to be monitored. They may include parameters that are to be complied with at the tap in accordance with this Directive, but also pollutants or substances already monitored in water bodies in accordance with the Water Framework Directive, or microplastics. Microplastics are of particular concern due to the negative effects on marine and freshwater environments, aquatic life, biodiversity, and possibly to human health since their small size facilitates uptake and bioaccumulation by organisms, or toxic effects from the complex mixture of chemicals these particles consist of.

On the basis of the hazard identification and monitoring, Member States can then take the following measures:

- Exempt water suppliers from, or require water suppliers to, carry out additional treatment and/or monitoring,
- Prevention measures to safeguard the abstraction area,
- Mitigating measures to address the pollution source, including research to understand impacts, for instance of microplastics, on aquatic ecosystems and human health, and find solutions to mitigate possible risks.

#### *Article 9 — Supply risk assessment (new)*

This Article introduces obligations related to carrying out a supply risk assessment by the water supplier. These provisions are not new, as those obligations had already been introduced in 2015 with the amended Annex II to the Directive. Part of Annex II to Directive 98/83/EC has therefore been moved to this Article 9. Annex II, part C, now only contains the technical

specifications to adjust the monitoring frequency of the parameters subject to a supply risk assessment.

#### *Article 10 — Domestic distribution risk assessment (new)*

This new Article introduces obligations related to carrying out domestic distribution risk assessments, in particular:

- Assessing risks linked to domestic distribution system, including risks linked to products and materials in contact with drinking water,
- Monitoring the following parameters: lead and *Legionella*. The latter has been found by the WHO to cause the highest health burden of all waterborne pathogens in the Union. In addition, it is also recommended by the European Centre for Disease Prevention and Control to apply regular checks and appropriate control measures to man-made water systems as a means to prevent cases of Legionnaires' disease at tourist accommodation sites, hospitals, long-term healthcare facilities or other settings where sizeable populations at higher risk may be exposed<sup>63</sup>.

On the basis of the risk assessment and monitoring, Member States can then take measures, such as training of plumbers, information and advice to house owners, appropriate treatment techniques in cooperation with water suppliers, etc. In addition, this Article partly addresses aspects covered in former Article 10 (products in contact with drinking water) and ensures consistency with Regulation (EU) No 305/2011 under which standards for construction products in contact with drinking water are to be established.

#### *Article 11 — Monitoring (former Article 7)*

Monitoring programmes have to be established, which cover all different monitoring obligations under this Directive. It is left to Member States to decide whether monitoring programmes should be established by national authorities or delegated, for instance, to the water suppliers. However, it is likely that most of the monitoring is actually carried out by water suppliers, to ensure water quality at the tap. Since new monitoring obligations are introduced in relation to hazard assessments (Article 8) and domestic distribution risk assessment (Article 10), it is necessary to clarify this Article and its relation to Annex II.

Paragraphs 1, 5 and 6 remain unchanged.

Paragraph 2 is amended to refer to monitoring to be undertaken under new Articles 8 and 9 (hazard assessments and domestic distribution risk assessments) and to the 'regular' monitoring of parameters listed in Annex I, parts A and B, in accordance with Annex II. In the latter case, monitoring may be adjusted, by water suppliers, on the basis of a supply risk assessment.

Former Paragraph 4 (possibility to adopt guidelines for monitoring) is deleted, as considered unnecessary. The possibility to amend Annex II (which relates to monitoring specifications) is however maintained under Article 18(2) (via delegated acts).

#### *Article 12 — Remedial actions and restrictions in use (former Article 8)*

Paragraph 1 remains unchanged.

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<sup>63</sup> Surveillance Report "Legionnaires' disease in Europe 2015" published by European Center for Disease Prevention and Control on 14 June 2017 <https://ecdc.europa.eu/sites/portal/files/documents/Legionnaires-disease-europe-2015.pdf>

Paragraph 2 is amended to refer to the new list of parameters for the domestic distribution risk assessment, foreseen under Annex I, part C.

Paragraph 3 is amended to clarify that exceedance of values set in Annex I, parts A and B, shall automatically be considered as potential danger to human health. This clarification is considered necessary in light of several ongoing infringement procedures under Directive 98/83/EC.

A new paragraph 4 is added to clarify obligations related to consumer information in case of exceedance of parametric values and/or potential danger to human health. Most of the obligations already existed under Directive 98/83/EC, but it was considered necessary to clarify them and group them under one paragraph to facilitate their implementation, also in light of several ongoing infringement procedures under Directive 98/83/EC.

Paragraph 5 remains unchanged.

Former Paragraph 6 is deleted, as considered unnecessary.

Former Paragraph 7 is deleted since former Annex I, part C, on ‘indicator parameters’ has been deleted.

Former Paragraph 8 obligations are incorporated under new Paragraph 4.

#### *Former Article 9 — Derogations*

Former Article 9 is deleted. The complex process to grant 3 derogations of 3 years is no longer justified. It was originally introduced in the Directive to allow Member States to comply with parametric values newly set in 1998. The system is now simplified, but the logic is the same as in Directive 98/83/EC: where a Member State exceeds a parametric value, Article 11 on remedial actions should apply (prohibition or restriction of the water, information to consumers, health advice, etc.). There should not be a need to formally adopt, via a Decision, the parametric value that is in exceedance of the one set in the Directive.

#### *Former Article 10 — Quality assurance of treatment equipment and materials (deleted)*

Former Article 10 is deleted: it is considered that this Article is no longer necessary under Directive 98/83/EC and is partly replaced by new Article 10 on domestic distribution risk assessment. The necessary harmonisation will take place, instead, under internal market legislation with the issuance of standardisation mandates under the Construction Products Regulation. Until these standardisation mandates are executed and the harmonised standards are published in the Official Journal, the status quo will continue to apply.

#### *Article 13 — Access to water intended for human consumption (new)*

This is a new Article, prompted mainly by the calls of the European citizens’ initiative ‘Right2Water’ and the Commission’s reply to the initiative. The Article foresees 2 main obligations:

- First, an obligation for Member States to improve access to and promote use of drinking water via a number of measures, some of which are included in the Article (assessing the share of people without access to drinking water, informing them about connection possibilities, encouraging the use of tap water in public buildings and restaurants, ensuring that equipment to freely access tap water is available in most cities, etc.),



- Second, an obligation for Member States to take all measures necessary to ensure access to drinking water for vulnerable and marginalised groups. When those groups do not have access to water intended for human consumption in the sense of this Directive, Member States should swiftly inform them of the quality of the water available to them, and give the necessary related health advice.

This should contribute to the commitment taken under UN Sustainable Development Goal 6 and the associated target to ‘*achieve universal and equitable access to safe and affordable drinking water for all*’. The concept of equitable access to water is usually three-dimensional, encompassing: geographic differences in services provided (for instance, due to lack of infrastructure), difficulties faced by vulnerable and marginalised groups (e.g. refugees, nomadic communities, homeless people and minority cultures such as Roma, Sinti, Travellers, Kalé, Gens du voyage, etc., whether sedentary or not) trying to access water services, and financial affordability. Concerning affordability, any water pricing policy in the Union must take into account the principles of recovery of costs and polluter pays. Member States are also allowed to have regard, when establishing differentiated water tariffs, to the variation in the economic and social conditions in the population. The principle of recovery of costs therefore does not prevent Member States from adopting social tariffs or having measures safeguarding populations at a socio-economic disadvantage, in addition to the measures provided for in new Article 13 of this Directive.

#### *Article 14 — Information to the public (new)*

This Article partly replaces former Article 13 of Directive 98/83/EC. Provisions related to access to information are more detailed, as it is expected that increased transparency will improve consumers’ confidence in their drinking water, including its quality, production and management. The obligations are two-fold:

- First, to ensure availability of a number of information, online, specified under Annex IV. The information accessed by the consumer should be relevant to his/her area of interest.
- Second, to provide, in addition, some specific information directly to the consumers (for instance on their invoices), such as volume consumed and details of the tariff(s) and cost-structure.

#### *Article 15 — Information on monitoring of implementation (new)*

This Article partly replaces former Article 13 of Directive 98/83/EC. Provisions related to reporting are simplified compared to former provisions and replaced by a new system, which does not involve actual reporting. This ensures that the system is made more effective by avoiding a long time lag between reference date of the data reported, and actual date of reporting.

The Article foresees that Member States should put in place a data set gathering only drinking water-relevant data under this Directive: incidents, exceedances of values set in the Annex, hazard and domestic distribution risk assessments, and measures taken to ensure access to water intended for human consumption.

The data sets should be set up in compliance with the INSPIRE Directive. To that end, the support of the European Environmental Agency is foreseen, whose role will also be to regularly

access the data and provide the Commission with overviews of the Directive's implementation at Union level, to be used also in the context of future evaluations of the Directive (Article 17).

*Article 16 — Access to Justice (new)*

This is a new Article, which is in line with Article 47 of the Charter of Fundamental Rights and implements the Aarhus Convention with regard to access to justice. It should be possible for citizens and NGOs to legally review the decisions taken by Member States under this Directive.

*Article 17 — Evaluation (new)*

This new Article sets the frame for future evaluations (in the sense of the Commission's Better Regulation guidelines) of the Directive. The first evaluation is foreseen after 12 years of the Directive's implementation, to receive at least data on 2 cycles of supply risk assessments.

*Article 18 — Review of Annexes (former Article 11)*

This Article replaces Article 11 of Directive 98/83/EC. Article 11 provided for the review of Annexes I, II and III of the Directive via the former Regulatory Procedure with Scrutiny. It is proposed to replace this procedure with delegated acts (for the amendment of all Annexes), also in line with the commitment made by the Institutions in the Interinstitutional Agreement of 13 April 2016 to 'to give high priority to the prompt alignment of all basic acts which still refer to the regulatory procedure with scrutiny'.

The regular review of Annex I is maintained to ensure that it remains in line with latest scientific developments.

*Article 19 — Exercise of the delegation (new)*

This is a new standard Article for the adoption of delegated acts.

*Article 20 — Committee Procedure (former Article 12)*

This is a new standard Article for the adoption of implementing acts.

*Former Article 13 — Information and reporting (deleted)*

Article deleted and mostly replaced by new Article 15.

*Former Article 14 — Timescale for compliance (deleted)*

This Article has been deleted since it granted some extra time (5 years) to implement Directive 98/83/EC in 1998, up to 2003. This Article has now become obsolete and should therefore be deleted.

*Former Article 15 — Exceptional circumstances (deleted)*

This Article from Directive 98/83/EC granted the possibility to Member States to request some extra time (of up to 6 years) to the Commission (in addition to the 5 years foreseen in former Article 14) to ensure compliance with Directive 98/83/EC. This Article has now become obsolete and should therefore be deleted.

*Former Articles 16 (Repeal), 17 (Transposition) and 18 (Entry into force)*

These three articles have been deleted and replaced by the updated standard text for repeal, transposition and entry into force in Recast Directives (cf Articles 22, 23, 24 new).

*Article 21 — Penalties (new)*

A standard new Article on penalties has been introduced.

*Article 22 — Transposition*

This Article follows the standard template.

*Article 23 — Repeal*

This Article follows the standard template.

*Article 24 — Entry into force*

This Article follows the standard template. 20 days are foreseen for the entry into force of the Directive after publication in the Official Journal.

*Article 25 — Addressees (former Article 19)*

The Article remains unchanged.

*Annex I*

*Part A*

Part A of Annex I concerns parametric values for microbiological parameters. Upon recommendation of the WHO, new parameters have been added to the list, namely *Clostridium Perfringens* spores and Coliform bacteria, Turbidity (moved from former Part C ‘Indicator Parameters’), and Somatic Coliphages.

*Part B*

Part B of Annex I concerns parametric values for chemical parameters. Several new parameters (with associated parametric values) have been added, upon WHO recommendation or on the basis of the precautionary principle, namely: Bisphenol A, Chlorate, Chlorite, Beta-Estradiol, Haloacetic acids, Microcystin, Nonylphenol, PFASs (individual and total), Uranium.

*Part C*

Part C of Annex I of Directive 98/83/EC used to concern Indicator Parameters. Indicator Parameters have been deleted from Annex I (except for a few moved to Part A, such as turbidity), and moved to Annex IV, on information to consumers. The rationale is that indicator parameters do not provide health-related information but rather information of interest to consumers (such as taste, colour, anions, cations, etc.).

The new Part C of Annex I concerns parameters to be assessed under the new domestic distribution risk assessment (foreseen in new Article 10), namely lead and *Legionella*.

*Annex II*

*Part A — General objectives and monitoring programmes for water intended for human consumption*

Part A of Annex II concerns general obligations related to monitoring programmes, and remains largely unchanged, except for the addition of a new reference to operational monitoring, with the associated turbidity parameter. This has been added upon the recommendation of the WHO as operational monitoring provides quick information, on a daily basis, to make sure that the treatment is functioning correctly.

#### *Part B — Frequencies*

Part B of Annex II concerns monitoring frequency. Two categories of parameters are specified:

- (2) core parameters (*E. coli*, *Clostridium perfringens* spores and somatic coliphages), which must always be monitored at the frequencies specified in the Table in Part B, and cannot be subject to a supply risk assessment; and
- (3) all other parameters, which must be monitored at the frequencies specified in the Table in Part B, until a supply risk assessment is carried out, in accordance with Part C of the same annex.

The Table of Part B concerning frequencies has been simplified and Note 3 (under the Table) deleted as it became unnecessary.

#### *Part C — Supply risk assessment*

The first paragraphs of Part C have been moved to new Article 9 on ‘supply risk assessment’. The rest (specifications to deviate from monitoring frequency when a supply risk assessment is performed) of this Part C, introduced in Directive 98/83/EC with the 2015 amendment, remains largely unchanged and the few modifications relate to formal alignment of the drafting to the wording of the rest of the Directive.

#### *Part D — Sampling methods and sampling points*

This Part, introduced in Directive 98/83/EC with the 2015 amendment, remains largely unchanged.

### *Annex III*

#### *Part A — Microbiological parameters for which methods of analysis are specified*

The first two paragraphs of Part A have been deleted as they concerned the possibility to amend Annex III Part A via regulatory procedure with scrutiny, and the possibility to amend Annex III via delegated acts is already foreseen under Articles 18 and 19.

The list of methods for microbiological parameters has been updated to reflect the new microbiological parameters included in Annex I, part A.

#### *Part B — Chemical parameters for which performance characteristics are specified*

This Part had been updated with the 2015 amendment of Directive 98/83/EC. At the time, 2 tables had been introduced, including one with specifications to be used until end 2019. It is proposed to delete this second table with specifications that are only valid until end 2019, and to maintain only the first table.

The table with the list of specifications for chemical parameters has also been updated to reflect the new list of chemical parameters set out in Annex I, part B.

#### *Annex IV (new)*

Annex IV is a new Annex which lists the information that must be available on a website, for purposes of consumer information. For reasons of proportionality, some additional specific information will have to be provided by very large water suppliers, including annual information on the overall performance of the water system in terms of efficiency, including leakage rates and energy efficiency. It is assumed that by contributing to better awareness of the issue, increased transparency could influence water suppliers and Member States' authorities alike to address the issue of water losses and leakages.

#### *Former Annexes IV and V*

Annex IV concerned the deadlines for transposition into national law of former Directive 80/778/EEC (also in view of the different Member States' Accessions). Annex V was the former table of correspondence between Directive 80/778/EEC and Directive 98/83/EC. They are no longer of relevance and have been deleted.

#### *Annex V (new)*

Annex V (new) is a standard Annex which lists the repealed Directive and its successive amendments, as well as their dates of transposition and application.

#### *Annex VI (new)*

Annex VI is the new table of correspondence between Directive 98/83/EC and the new recast Directive proposal.

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↓ 1998/83 (adapted)

2017/0332 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the quality of water intended for human consumption (recast)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty  on the Functioning of the European Union  ~~establishing the European Community~~ and, in particular, Article  192(1)  ~~130s(1)~~ thereof,  
Having regard to the proposal from the European Commission,  
After transmission of the draft legislative act to the national parliaments,  
Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,  
Having regard to the opinion of the Committee of the Regions<sup>2</sup>  
Acting in accordance with the ordinary legislative procedure,  
Whereas:

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↓ new

(1) Council Directive 98/83/EC<sup>3</sup> has been substantially amended several times<sup>4</sup>. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

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↓ 1998/83 recital 1 (adapted)

~~Whereas it is necessary to adapt Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption<sup>5</sup> to scientific and technological progress; whereas experience gained from implementing that Directive shows that it is necessary to create an appropriately flexible and transparent legal framework for Member States to address failures to meet the standards; whereas, furthermore, that Directive should be re-examined in the light of the Treaty on European Union and in particular the principle of subsidiarity;~~

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330 5.12.1998, p. 32).

<sup>4</sup> See Annex V.

<sup>5</sup> OJ L 229, 30.8.1980, p. 11. Directive as last amended by the 1994 Act of Accession.

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↓ 1998/83 recital 2 (adapted)

~~Whereas in keeping with Article 3b of the Treaty, which provides that no Community action should go beyond what is necessary to achieve the objectives of the Treaty, it is necessary to revise Directive 80/778/EEC so as to focus on compliance with essential quality and health parameters, leaving Member States free to add other parameters if they see fit;~~

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↓ 1998/83 recital 3

~~Whereas, in accordance with the principle of subsidiarity, Community action must support and supplement action by the competent authorities in the Member States;~~

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↓ 1998/83 recital 4

~~Whereas, in accordance with the principle of subsidiarity, the natural and socio-economic differences between the regions of the Union require that most decisions on monitoring, analysis, and the measures to be taken to redress failures be taken at a local, regional or national level insofar as those differences do not detract from the establishment of the framework of laws, regulations and administrative provisions laid down in this Directive;~~

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↓ 1998/83 recital 5

~~Whereas Community standards for essential and preventive health-related quality parameters in water intended for human consumption are necessary if minimum environmental quality goals to be achieved in connection with other Community measures are to be defined so that the sustainable use of water intended for human consumption may be safeguarded and promoted;~~

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↓ 1998/83 recital 6 (adapted)

⇒ new

(2) ⇒ Directive 98/83/EC set the legal framework to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. This Directive should pursue the same objective. ⇐ ~~in view of the importance of the quality of water intended for human consumption for human health,~~ ☒ To that end, ☒ it is necessary to lay down at ☒ Union ☒ Community level the ~~essential quality standards~~ ⇒ minimum requirements ⇐ with which water intended for that purpose must comply. ⇒ Member States should take the necessary measures to ensure that water intended for human consumption is free from any micro-organisms and parasites and from substances which, in certain cases, constitute a potential danger to human health, and that it meets those minimum requirements. ⇐

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↓ 1998/83 recital 7

~~Whereas it is necessary to include water used in the food industry unless it can be established that the use of such water does not affect the wholesomeness of the finished product.~~

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↓ 1998/83 recital 8

~~Whereas to enable water supply undertakings to meet the quality standards for drinking water, appropriate water protection measures should be applied to ensure that surface and groundwater is kept clean; whereas the same goal can be achieved by appropriate water treatment measures to be applied before supply;~~

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↓ 1998/83 recital 9 (adapted)

~~Whereas the coherence of European water policy presupposes that a suitable water framework Directive will be adopted in due course;~~

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↓ 1998/83 recital 10 (adapted)

⇒ new

- (3) It is necessary to exclude from the scope of this Directive natural mineral waters and waters which are medicinal products, since ~~special rules for those types of water have been established~~ ⇒ these waters are respectively covered by Directive 2009/54/EC of the European Parliament and of the Council<sup>6</sup> and Directive 2001/83/EC of the European Parliament and of the Council<sup>7</sup>. However, Directive 2009/54/EC deals with both natural mineral waters and spring waters, and only the former category should be exempted from the scope of this Directive. In accordance with the third subparagraph of Article 9(4) of Directive 2009/54/EC, spring waters should comply with the provisions of this Directive. In the case of water intended for human consumption put into bottles or containers intended for sale or used in the manufacture, preparation or treatment of food, the water should comply with the provisions of this Directive until the point of compliance (i.e. the tap), and should afterwards be considered as food, in accordance with the second subparagraph of Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council<sup>8</sup>. ⇐
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↓ 1998/83 recital 11

~~Whereas measures are required for all parameters directly relevant to health and for other parameters if a deterioration in quality has occurred; whereas, furthermore, such measures should be carefully coordinated with the implementation of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market<sup>9</sup> and Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market<sup>10</sup>;~~

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<sup>6</sup> Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (Recast) (OJ L 164, 26.6.2009, p. 45).

<sup>7</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

<sup>8</sup> Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

<sup>9</sup> OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 96/68/EC (OJ L 277, 30.10.1996, p. 25).

<sup>10</sup> OJ L 123, 24.4.1998, p. 1.



- (4) Following the conclusion of the European citizens' initiative on the right to water (Right2Water)<sup>11</sup>, a Union-wide public consultation was launched and a Regulatory Fitness and Performance (REFIT) Evaluation of Directive 98/83/EC was performed<sup>12</sup>. It became apparent from that exercise that certain provisions of Directive 98/83/EC needed to be updated. Four areas were identified as offering scope for improvement, namely the list of quality-based parametric values, the limited reliance on a risk-based approach, the imprecise provisions on consumer information, and the disparities between approval systems for materials in contact with water intended for human consumption. In addition, the European citizens' initiative on the right to water identified as a distinct problem the fact that part of the population, especially marginalised groups, has no access to water intended for human consumption, which is also a commitment under Sustainable Development Goal 6 of UN Agenda 2030. A final issue identified is the general lack of awareness of water leakages, which are driven by underinvestment in maintenance and renewal of the water infrastructure, as also pointed out in the European Court of Auditors' Special Report on water infrastructure<sup>13</sup>.
- (5) The World Health Organisation (WHO) Regional Office for Europe conducted a detailed review of the list of parameters and parametric values laid down in Directive 98/83/EC in order to establish whether there is a need to adapt it in light of technical and scientific progress. In view of the results of that review<sup>14</sup>, enteric pathogens and *Legionella* should be controlled, six chemical parameters or parameter groups should be added, and three representative endocrine disrupting compounds should be considered with precautionary benchmark values. For three of the new parameters, parametric values that are more stringent than the ones proposed by the WHO, yet still feasible, should be laid down in light of the precautionary principle. For lead, the WHO noted that concentrations should be as low as reasonably practical, and for chromium, the value remains under WHO review; therefore, for both parameters, a transitional period of ten years should apply before the values become more stringent.
- (6) The WHO also recommended that three parametric values be made less stringent and five parameters be removed from the list. Nevertheless, those changes are not considered necessary as the risk-based approach introduced by Commission Directive (EU) 2015/1787<sup>15</sup> allows water suppliers to remove a parameter from the list to be monitored under certain conditions. Treatment techniques to meet those parametric values are already in place.

<sup>11</sup> COM(2014) 177 final

<sup>12</sup> SWD(2016) 428 final

<sup>13</sup> Special report of the European Court of Auditors SR 12/2017: "*Implementing the Drinking Water Directive: water quality and access to it improved in Bulgaria, Hungary and Romania, but investment needs remains substantial*".

<sup>14</sup> Drinking Water Parameter Cooperation Project of the WHO Regional Office for Europe "Support to the revision of Annex I Council Directive 98/83/EC on the quality of water intended for human consumption (Drinking Water Directive) Recommendation", 11 September 2017..

<sup>15</sup> Commission Directive (EU) 2015/1787 of 6 October 2015 amending Annexes II and III to Council Directive 98/83/EC on the quality of water intended for human consumption (OJ L 260, 7.10.2015, p. 6).

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↓ 1998/83 recital 12

~~Whereas it is necessary to set individual parametric values for substances which are important throughout the Community at a level strict enough to ensure that this Directive's purpose can be achieved;~~

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↓ 1998/83 recital 13

~~Whereas the parametric values are based on the scientific knowledge available and the precautionary principle has also been taken into account; whereas those values have been selected to ensure that water intended for human consumption can be consumed safely on a life-long basis, and thus represent a high level of health protection;~~

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↓ 1998/83 recital 14

~~Whereas a balance should be struck to prevent both microbiological and chemical risks; whereas, to that end, and in the light of a future review of the parametric values, the establishment of parametric values applicable to water intended for human consumption should be based on public health considerations and on a method of assessing risk;~~

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↓ 1998/83 recital 15

~~Whereas there is at present insufficient evidence on which to base parametric values for endocrine disrupting chemicals at Community level, yet there is increasing concern regarding the potential impact on humans and wildlife of the effects of substances harmful to health;~~

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↓ 1998/83 recital 16

~~Whereas in particular the standards in Annex I are generally based on the World Health Organisation's 'Guidelines for drinking water quality', and the opinion of the Commission's Scientific Advisory Committee to examine the toxicity and ecotoxicity of chemical compounds;~~

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↓ 1998/83 recital 17 (adapted)

(7) ~~☒~~ Where necessary to protect human health within their territories, ~~☒~~ Member States ~~☒~~ should be required to ~~☒~~ ~~must~~ set values for ~~☒~~ ~~other~~ additional parameters not included in Annex I ~~where that is necessary to protect human health within their territories.~~

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↓ 1998/83 recital 18 (adapted)

~~Whereas Member States may set values for other additional parameters not included in Annex I where that is deemed necessary for the purpose of ensuring the quality of the production, distribution and inspection of water intended for human consumption;~~

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↓ 1998/83 recital 19

~~Whereas, when Member States deem it necessary to adopt standards more stringent than those set out in Annex I, Parts A and B, or standards for additional parameters not included in Annex I but necessary to protect human health, they must notify the Commission of those standards;~~

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↓ 1998/83 recital 20

~~Whereas Member States are bound, when introducing or maintaining more stringent protection measures, to respect the principles and rules of the Treaty, as they are interpreted by the Court of Justice;~~

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↓ new

- (8) Preventive safety planning and risk-based elements were only considered to a limited extent in Directive 98/83/EC. The first elements of a risk-based approach were already introduced in 2015 with Directive (EU) 2015/1787, which amended Directive 98/83/EC so as to allow Member States to derogate from the monitoring programmes they have established, provided credible risk assessments are performed, which may be based on the WHO's Guidelines for Drinking Water Quality<sup>16</sup>. Those Guidelines, laying down the so-called "Water Safety Plan" approach, together with standard EN 15975-2 concerning security of drinking water supply, are internationally recognised principles on which the production, distribution, monitoring and analysis of parameters in water intended for human consumption are based. They should be maintained in this Directive. To ensure that those principles are not limited to monitoring aspects, to focus time and resources on risks that matter and on cost-effective source measures, and to avoid analyses and efforts on non-relevant issues, it is appropriate to introduce a complete risk-based approach, throughout the supply chain, from the abstraction area to distribution until the tap. That approach should consist of three components: first, an assessment by the Member State of the hazards associated with the abstraction area ("hazard assessment"), in line with the WHO's Guidelines and Water Safety Plan Manual<sup>17</sup>; second, a possibility for the water supplier to adapt monitoring to the main risks ("supply risk assessment"); and third, an assessment by the Member State of the possible risks stemming from the domestic distribution systems (e.g. *Legionella* or lead) ("domestic distribution risk assessment"). Those assessments should be regularly reviewed, *inter alia*, in response to threats from climate-related extreme weather events, known changes of human activity in the abstraction area or in response to source-related incidents. The risk-based approach ensures a continuous exchange of information between competent authorities and water suppliers.
- (9) The hazard assessment should be geared towards reducing the level of treatment required for the production of water intended for human consumption, for instance by reducing the pressures causing the pollution of water bodies used for abstraction of water intended for human consumption. To that end, Member States should identify hazards and possible pollution sources associated with those water bodies and monitor pollutants which they identify as relevant, for instance because of the hazards identified

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<sup>16</sup> Guidelines for drinking water quality, Fourth Edition, World Health Organisation, 2011 [http://www.who.int/water\\_sanitation\\_health/publications/2011/dwq\\_guidelines/en/index.html](http://www.who.int/water_sanitation_health/publications/2011/dwq_guidelines/en/index.html)

<sup>17</sup> Water Safety Plan Manual: step-by-step risk management for drinking water suppliers, World Health Organisation, 2009, [http://apps.who.int/iris/bitstream/10665/75141/1/9789241562638\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/75141/1/9789241562638_eng.pdf)

(e.g. microplastics, nitrates, pesticides or pharmaceuticals identified under Directive 2000/60/EC of the European Parliament and of the Council<sup>18</sup>), because of their natural presence in the abstraction area (e.g. arsenic), or because of information from the water suppliers (e.g. sudden increase of a specific parameter in raw water). Those parameters should be used as markers that trigger action by competent authorities to reduce the pressure on the water bodies, such as prevention or mitigating measures (including research to understand impacts on health where necessary), to protect those water bodies and address the pollution source, in cooperation with water suppliers and stakeholders.

- (10) As regards the hazard assessment, Directive 2000/60/EC requires Member States to identify water bodies used for the abstraction of water intended for human consumption, monitor them, and take the necessary measures to avoid deterioration in their quality in order to reduce the level of purification treatment required in the production of water that is fit for human consumption. To avoid any duplication of obligations, Member States should, when carrying out the hazard assessment, make use of the monitoring carried out under Articles 7 and 8 of Directive 2000/60/EC and Annex V to that Directive and of the measures included in their programmes of measures pursuant to Article 11 of Directive 2000/60/EC.

↓ 1998/83 recital 21 (adapted)

⇒ new

- (11) The parametric values  $\boxtimes$  used to assess the quality of water intended for human consumption  $\boxtimes$  are to be complied with at the point where water intended for human consumption is made available to the appropriate user. ⇒ However, the quality of water intended for human consumption can be influenced by the domestic distribution system. The WHO notes that, in the Union, *Legionella* causes the highest health burden of all waterborne pathogens. It is transmitted by warm water systems through inhalation, for instance during showering. It is therefore clearly linked to the domestic distribution system. Since imposing a unilateral obligation to monitor all private and public premises for this pathogen would lead to unreasonably high costs, a domestic distribution risk assessment is therefore more suited to address this issue. In addition, the potential risks stemming from products and materials in contact with water intended for human consumption should also be considered in the domestic distribution risk assessment. The domestic distribution risk assessment should therefore include, *inter alia*, focusing monitoring on priority premises, assessing the risks stemming from the domestic distribution system and related products and materials, and verifying the performance of construction products in contact with water intended for human consumption on the basis of their declaration of performance in accordance with Regulation (EU) No 305/2011 of the European Parliament and of the Council<sup>19</sup>. The information referred to in Articles 31 and 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>20</sup> is also to be supplied together with the declaration of performance. On

<sup>18</sup> 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).

<sup>19</sup> Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

<sup>20</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive

the basis of this assessment, Member States should take all necessary measures to ensure, *inter alia*, that appropriate control and management measures (e.g. in case of outbreaks) are in place, in line with the guidance of the WHO<sup>21</sup>, and that the migration from construction products does not endanger human health. However, without prejudice to Regulation (EU) No 305/2011, where these measures would imply limits to the free movement of products and materials in the Union, these limits need to be duly justified and strictly proportionate, and not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. ⇐

↓ new

- (12) The provisions of Directive 98/83/EC on quality assurance of treatment, equipment and materials did not succeed in addressing obstacles to the internal market when it comes to the free circulation of construction products in contact with water intended for human consumption. National product approvals are still in place, with different requirements from one Member State to another. This renders it difficult and costly for manufacturers to market their products all over the Union. The removal of technical barriers may only be effectively achieved by establishing harmonised technical specifications for construction products in contact with water intended for human consumption under Regulation (EU) No 305/2011. That Regulation allows for the development of European standards harmonising the assessment methods for construction products in contact with water intended for human consumption and for threshold levels and classes to be set in relation to the performance level of an essential characteristic. To that end, a standardisation request specifically requiring standardisation work on hygiene and safety for products and materials in contact with water intended for human consumption under Regulation (EU) No 305/2011 has been included in the 2017 standardisation Work Programme<sup>22</sup>, and a standard is to be issued by 2018. The publication of this harmonised standard in the Official Journal of the European Union will ensure a rational decision-making for placing or making available on the market safe construction products in contact with water intended for human consumption. As a consequence, the provisions on equipment and material in contact with water intended for human consumption should be deleted, partly replaced by provisions related to the domestic distribution risk assessment and complemented by relevant harmonised standards under Regulation (EU) No 305/2011.

↓ 1998/83 recital 22

~~Whereas the quality of water intended for human consumption can be influenced by the domestic distribution system; whereas, furthermore, it is recognised that neither the domestic distribution system nor its maintenance may be the responsibility of the Member States;~~

76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

<sup>21</sup> "Legionella and the prevention of Legionellosis", World Health Organisation, 2007, [http://www.who.int/water\\_sanitation\\_health/emerging/legionella.pdf](http://www.who.int/water_sanitation_health/emerging/legionella.pdf)

<sup>22</sup> SWD(2016) 185 final

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↓ 1998/83 recital 23 (adapted)  
⇒ new

- (13) Each Member State should ☒ ensure that ~~☒ establish~~ monitoring programmes ☒ are established ☒ to check that water intended for human consumption meets the requirements of this Directive. ~~whereas such monitoring programmes should be appropriate to local needs and should meet the minimum monitoring requirements laid down in this Directive;~~ ⇒ Most of the monitoring carried out for the purposes of this Directive is performed by water suppliers. A certain flexibility should be granted to water suppliers as regards the parameters they monitor for the purposes of the supply risk assessment. If a parameter is not detected, water suppliers should be able to decrease the monitoring frequency or stop monitoring that parameter altogether. The supply risk assessment should be applied to most parameters. However, a core list of parameters should always be monitored with a certain minimum frequency. This Directive mainly sets provisions on monitoring frequency for the purposes of compliance checks and only limited provisions on monitoring for operational purposes. Additional monitoring for operational purposes may be necessary to ensure the correct functioning of water treatment, at the discretion of water suppliers. In that regard, the water suppliers may refer to the WHO's Guidelines and Water Safety Plan Manual. ⇐
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↓ new

- (14) The risk-based approach should gradually be applied by all water suppliers, including small water suppliers, as the evaluation of Directive 98/83/EC showed deficiencies in its implementation by those suppliers, which were sometimes due to the cost of performing unnecessary monitoring operations. When applying the risk-based approach, security concerns should be taken into account.
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↓ 1998/83 recital 24

~~Whereas the methods used to analyse the quality of water intended for human consumption should be such as to ensure that the results obtained are reliable and comparable;~~

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↓ 1998/83 recital 25 (adapted)  
⇒ new

- (15) In the event of non-compliance with the standards imposed by this Directive the Member State concerned should ⇒ immediately ⇐ investigate the cause and ensure that the necessary remedial action is taken as soon as possible to restore the quality of the water. ☒ In cases where the water supply constitutes a potential danger to human health, the supply of such water should be prohibited or its use restricted. ⇐ ⇒ In addition, it is important to clarify that failure to meet the minimum requirements for values relating to microbiological and chemical parameters should automatically be considered by Member States as a potential danger to human health. ⇐ ☒ In cases where remedial action is necessary to restore the quality of water intended for human consumption, in accordance with Article 191(2) of the Treaty, priority should be given to action which rectifies the problem at source. ⇐

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↓ 1998/83 recital 26 (adapted)

~~Whereas it is important to prevent contaminated water causing a potential danger to human health; whereas the supply of such water should be prohibited or its use restricted;~~

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↓ 1998/83 recital 27

~~Whereas, in the event of non-compliance with a parameter that has an indicator function, the Member State concerned must consider whether that non-compliance poses any risk to human health; whereas it should take remedial action to restore the quality of the water where that is necessary to protect human health;~~

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↓ 1998/83 recital 28 (adapted)

~~Whereas, should such remedial action be necessary to restore the quality of water intended for human consumption, in accordance with Article 130r(2) of the Treaty, priority should be given to action which rectifies the problem at source;~~

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↓ 1998/83 recital 29

⇒ new

(16) Member States should ⇒ no longer ⇐ be authorised, ~~under certain conditions,~~ to grant derogations from this Directive. ⇐ Derogations were initially used to allow Member States up to nine years to resolve a non-compliance with a parametric value. This procedure proved to be burdensome for Member States and Commission alike. In addition, in some cases, it led to delays in remedial actions being taken, as the possibility for derogation was considered as a transitional period. The provision on derogations should therefore be deleted. For reasons of protection of human health, when parametric values are exceeded, the provisions related to remedial actions should apply immediately without the possibility of granting a derogation from the parametric value. Derogations granted by Member States pursuant to Article 9 of Directive 98/83/EC and still applicable at the date of entry into force of this Directive should, however, continue to apply until the end of the derogation but should not be renewed. ⇐ ~~whereas, furthermore, it is necessary to establish a proper framework for such derogations, provided that they must not constitute a potential danger to human health and provided that the supply of water intended for human consumption in the area concerned cannot otherwise be maintained by any other reasonable means;~~

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↓ new

(17) The Commission, in its reply to the European citizens' initiative 'Right2Water' in 2014<sup>23</sup>, invited Member States to ensure access to a minimum water supply for all citizens, in accordance with the WHO recommendations. It also committed to continue to *"improve access to safe drinking water [...] for the whole population through environmental policies"*<sup>24</sup>. This is in line with UN Sustainable Development Goal 6 and the associated target to *"achieve universal and equitable access to safe and affordable*

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<sup>23</sup> COM(2014)177 final

<sup>24</sup> COM(2014)177 final, p. 12.

*drinking water for all*". The concept of equitable access covers a wide array of aspects such as availability (due for instance to geographic reasons, lack of infrastructure or the specific situation of certain parts of the populations), quality, acceptability, or financial affordability. Concerning affordability of water, it is important to recall that, when setting water tariffs in accordance with the principle of recovery of costs set out in Directive 2000/60/EC, Member States may have regard to the variation in the economic and social conditions of the population and may therefore adopt social tariffs or take measures safeguarding populations at a socio-economic disadvantage. This Directive deals, in particular, with the aspects of access to water which are related to quality and availability. To address those aspects, as part of the reply to the European citizens' initiative and to contribute to the implementation of Principle 20 of the European Pillar of Social Rights<sup>25</sup> that states that "everyone has the right to access essential services of good quality, including water", Member States should be required to tackle the issue of access to water at national level whilst enjoying some discretion as to the exact type of measures to be implemented. This can be done through actions aimed, *inter alia*, at improving access to water intended for human consumption for all, for instance with freely accessible fountains in cities, and promoting its use by encouraging the free provision of water intended for human consumption in public buildings and restaurants.

- (18) The European Parliament, in its Resolution on the "follow-up to the European citizens' initiative Right2Water"<sup>26</sup>, "requested that Member States should pay special attention to the needs of vulnerable groups in society"<sup>27</sup>. The specific situation of minority cultures, such as Roma, Sinti, Travellers, Kalé, Gens du voyage etc., whether sedentary or not – in particular their lack of access to drinking water – was also acknowledged in the Commission Report on the implementation of the EU Framework for National Roma Integration Strategies<sup>28</sup> and the Council Recommendation on effective Roma integration measures in the Member States<sup>29</sup>. In light of that general context, it is appropriate that Member States pay particular attention to vulnerable and marginalised groups by taking the necessary measures to ensure that those groups have access to water. Without prejudice to the right of the Member States to define those groups, they should at least include refugees, nomadic communities, homeless people and minority cultures such as Roma, Sinti, Travellers, Kalé, Gens du voyage, etc., whether sedentary or not. Such measures to ensure access, left to the appreciation of the Member States, might for example include providing alternative supply systems (individual treatment devices), providing water via tankers (trucks and cisterns) and ensuring the necessary infrastructure for camps.

↓ 1998/83 recital 30

~~Whereas, since the preparation or distribution of water intended for human consumption may involve the use of certain substances or materials, rules are required to govern the use thereof in order to avoid possible harmful effects on human health;~~

<sup>25</sup> Interinstitutional Proclamation on the European Pillar of Social Rights (2017/C 428/09) of 17 November 2017 (OJ C 428, 13.12.2017, p. 10).

<sup>26</sup> P8\_TA(2015)0294

<sup>27</sup> P8\_TA(2015)0294, paragraph 62.

<sup>28</sup> COM(2014) 209 final

<sup>29</sup> Council Recommendation (2013/C 378/01) of 9 December 2013 on effective Roma integration measures in the Member States (OJ C 378, 24.12.2013, p. 1).



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↓ 1998/83 recital 31

~~Whereas scientific and technical progress may necessitate rapid adaptation of the technical requirements laid down in Annexes II and III; whereas, furthermore, in order to facilitate application of the measures required for that purpose, provision should be made for a procedure under which the Commission can adopt such adaptations with the assistance of a committee composed of representatives of the Member States;~~

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↓ 1998/83 recital 32

~~Whereas consumers should be adequately and appropriately informed of the quality of water intended for human consumption, of any derogations granted by the Member States and of any remedial action taken by the competent authorities; whereas, furthermore, consideration should be given both to the technical and statistical needs of the Commission, and to the rights of the individual to obtain adequate information concerning the quality of water intended for human consumption;~~

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↓ 1998/83 recital 33

~~Whereas, in exceptional circumstances and for geographically defined areas, it may be necessary to allow Member States a more extensive timescale for compliance with certain provisions of this Directive;~~

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↓ 1998/83 recital 34 (adapted)

~~Whereas this Directive should not affect the obligations of the Member States as to the time limit for transposition into national law, or as to application, as shown in Annex IV;~~

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↓ new

(19) The 7<sup>th</sup> Environment Action Programme to 2020 ‘Living well, within the limits of our planet’<sup>30</sup>, requires that the public have access to clear environmental information at national level. Directive 98/83/EC only provided for passive access to information, meaning that Member States merely had to ensure that information was available. Those provisions should therefore be replaced to ensure that up-to-date information is easily accessible, for instance on a website whose link should be actively distributed. The up-to-date information should not only include results from the monitoring programmes, but also additional information that the public may find useful, such as information on indicators (iron, hardness, minerals, etc.), which often influence consumers' perception of tap water. To that end, the indicator parameters of Directive 98/83/EC that did not provide health-related information should be replaced by on-line information on those parameters. For very large water suppliers, additional information on, *inter alia*, energy efficiency, management, governance, cost structure, and treatment applied, should also be available on-line. It is assumed that better consumer knowledge and improved transparency will contribute to increasing citizens' confidence in the water supplied to

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<sup>30</sup> Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’ (OJ L 354, 28.12.2013, p. 171).

them. This in turn is expected to lead to increased use of tap water, thereby contributing to reduced plastic litter and greenhouse gas emissions, and a positive impact on climate change mitigation and the environment as a whole.

- (20) For the same reasons, and in order to make consumers more aware of the implications of water consumption, they should also receive information (for instance on their invoice or by smart applications) on the volume consumed, the cost structure of the tariff charged by the water supplier, including variable and fixed costs, as well as on the price per litre of water intended for human consumption, thereby allowing a comparison with the price of bottled water.
- (21) The principles to be considered in the setting of water tariffs, namely recovery of costs for water services and polluter pays, are set out in Directive 2000/60/EC. However, the financial sustainability of the provision of water services is not always ensured, sometimes leading to under-investment in the maintenance of water infrastructure. With the improvement of monitoring techniques, leakage rates – mainly due to such under-investment – have become increasingly apparent and reduction of water losses should be encouraged at Union level to improve the efficiency of water infrastructure. In line with the principle of subsidiarity, that issue should be addressed by increasing transparency and consumer information on leakage rates and energy efficiency.
- (22) Directive 2003/4/EC of the European Parliament and of the Council<sup>31</sup> aims at guaranteeing the right of access to environmental information in the Member States in line with the Aarhus Convention. It encompasses broad obligations related both to making environmental information available upon request and actively disseminating such information. Directive 2007/2/EC of the European Parliament and of the Council<sup>32</sup> is also of broad scope, covering the sharing of spatial information, including data-sets on different environmental topics. It is important that provisions of this Directive related to access to information and data-sharing arrangements complement those Directives and do not create a separate legal regime. Therefore, the provisions of this Directive on information to the public and on information on monitoring of implementation should be without prejudice to Directives 2003/4/EC and 2007/2/EC.
- (23) Directive 98/83/EC did not set out reporting obligations for small water suppliers. To remedy this, and to address the need for implementation and compliance information, a new system should be introduced, whereby Member States are required to set up, keep up-to-date and make accessible to the Commission and the European Environmental Agency data sets containing only relevant data, such as exceedances of parametric values and incidents of a certain significance. This should ensure that the administrative burden on all entities remains as limited as possible. To ensure the appropriate infrastructure for public access, reporting and data-sharing between public authorities, Member States should base the data specifications on Directive 2007/2/EC and its implementing acts.
- (24) Data reported by Member States is not only necessary for the purposes of compliance checking but is also essential to enable the Commission to monitor and assess the performance of the legislation against the objectives it pursues in order to inform any future evaluation of the legislation in accordance with paragraph 22 of the

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<sup>31</sup> Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

<sup>32</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016<sup>33</sup>. In that context, there is a need for relevant data that will allow better assessment of the efficiency, effectiveness, relevance, and EU value added of the Directive, hence the necessity to ensure appropriate reporting mechanisms that can also serve as indicators for future evaluations of this Directive.

- (25) Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, the Commission should carry out an evaluation of this Directive within a certain period of time from the date set for its transposition. That evaluation should be based on experience gathered and data collected during the implementation of the Directive, on relevant scientific, analytical, epidemiological data, and on any available WHO recommendations.
- (26) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to promote the principles relating to health care, access to services of general economic interest, environmental protection and consumer protection.
- (27) As the Court of Justice has held on numerous occasions, it would be incompatible with the binding effect which the third paragraph of Article 288 of the Treaty ascribes to a Directive to exclude, in principle, the possibility of an obligation imposed by a Directive from being relied on by persons concerned. That consideration applies particularly in respect of a Directive which has the objective of protecting human health from the adverse effects of any contamination of water intended for human consumption. Therefore, in accordance with the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters<sup>34</sup>, members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being. In addition, where a large number of persons are in a 'mass harm situation', due to the same illegal practices relating to the violation of rights granted by this Directive, they should have the possibility to use collective redress mechanisms, where such mechanisms have been established by Member States in line with Commission Recommendation 2013/396/EU<sup>35</sup>.
- (28) In order to adapt this Directive to scientific and technical progress or to specify monitoring requirements for the purposes of the hazard and domestic distribution risk assessments, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend Annexes I to IV to this Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. In addition, the empowerment laid down in Annex I, part C, Note 10, of Directive 98/83/EC, to set monitoring frequencies and monitoring methods for

<sup>33</sup> OJ L 123, 12.5.2016, p. 1.

<sup>34</sup> OJ L 124, 17.5.2005, p. 4.

<sup>35</sup> Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union law (OJ L 201, 26.7.2013, p. 60).

radioactive substances has become obsolete due to the adoption of Council Directive 2013/51/Euratom<sup>36</sup> and should therefore be deleted. The empowerment laid down in the second subparagraph of part A of Annex III to Directive 98/83/EC concerning amendments of the Directive is no longer necessary and should be deleted.

- (29) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission for the adoption of the format of, and modalities to present, the information on water intended for human consumption to be provided to all persons supplied, as well as for the adoption of the format of, and modalities to present, the information to be provided by Member States and compiled by the European Environmental Agency on the implementation of this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>37</sup>.
- (30) Without prejudice to the requirements of Directive 2008/99/EC of the European Parliament and of the Council<sup>38</sup>, Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. The penalties should be effective, proportionate and dissuasive.
- (31) Directive 2013/51/Euratom lays down specific arrangements for the monitoring of radioactive substances in water intended for human consumption. Therefore, this Directive should not set out parametric values on radioactivity.
- (32) Since the objective of this Directive, namely the protection of human health, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (33) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.
- (34) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex V, Part B,

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<sup>36</sup> Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12).

<sup>37</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>38</sup> Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

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↓ 1998/83 (adapted) ⇒ new
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HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

*Objective*

1. This Directive concerns the quality of water intended for human consumption.
2. The objective of this Directive shall be to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean.

*Article 2*

*Definitions*

For the purposes of this Directive:

1. 'water intended for human consumption' shall mean: ~~(a)~~ all water either in its original state or after treatment, intended for drinking, cooking, food preparation  $\Rightarrow$  or production,  $\Leftarrow$  or other domestic purposes  $\Rightarrow$  in both public and private premises  $\Leftarrow$ , regardless of its origin and whether it is supplied from a distribution network,  $\boxtimes$  supplied  $\boxtimes$  from a tanker or,  $\Rightarrow$  for spring waters, put  $\Leftarrow$  in bottles or containers; ~~(b) all water used in any food production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless the competent national authorities are satisfied that the quality of the water cannot affect the wholesomeness of the foodstuff in its finished form;~~
2. 'domestic distribution system' shall mean the pipework, fittings and appliances which are installed between the taps that are normally used for human consumption  $\Rightarrow$  in both public and private premises  $\Leftarrow$  and the distribution network but only if they are not the responsibility of the water supplier, in its capacity as a water supplier, according to the relevant national law.

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↓ new
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3. 'water supplier' shall mean an entity supplying at least 10 m<sup>3</sup> of water intended for human consumption a day as an average.
4. 'small water supplier' shall mean a water supplier supplying less than 500 m<sup>3</sup> per day or serving less than 5 000 people.
5. 'large water supplier' shall mean a water supplier supplying at least 500 m<sup>3</sup> per day or serving at least 5 000 people.
6. 'very large water supplier' shall mean a water supplier supplying at least 5 000 m<sup>3</sup> per day or serving at least 50 000 people.

7. 'priority premises' shall mean large premises with many users potentially exposed to water-related risks, such as hospitals, healthcare institutions, buildings with a lodging facility, penal institutions and campgrounds, as identified by Member States.
8. 'vulnerable and marginalised groups' shall mean people isolated from society, as a result of discrimination or of a lack of access to rights, resources, or opportunities, and who are more exposed to a range of possible risks relating to their health, safety, lack of education, engagement in harmful practices, or other risks, compared to the rest of society.

↓ 1998/83 (adapted)

### Article 3

#### Exemptions

1. This Directive shall not apply to:
  - (a) natural mineral waters recognised as such by the  responsible authority, as referred to in  ~~competent national authorities, in accordance with Council Directive 80/777/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters~~<sup>39</sup> Directive 2009/54/EC;

↓ 1998/83

- (b) waters which are medicinal products within the meaning of ~~Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products~~<sup>40</sup>; Directive 2001/83/EC.

↓ 1998/83

2. Member States may exempt from the provisions of this Directive:
  - (a) water intended exclusively for those purposes for which the competent authorities are satisfied that the quality of the water has no influence, either directly or indirectly, on the health of the consumers concerned;
  - (b) water intended for human consumption from an individual supply providing less than 10 ~~m<sup>3</sup>m<sup>3</sup>~~ a day as an average or serving fewer than 50 persons, unless the water is supplied as part of a commercial or public activity.
3. Member States that have recourse to the exemptions provided for in paragraph 2(b) shall ensure that the population concerned is informed thereof and of any action that can be taken to protect human health from the adverse effects resulting from any contamination of water intended for human consumption. In addition, when a potential

<sup>39</sup> ~~OJ L 229, 30.8.1980, p. 1. Directive as last amended by Directive 96/70/EC (OJ L 299, 23.11.1996, p. 26).~~

<sup>40</sup> ~~OJ 22.9.2.1965, p. 369. Directive as last amended by Directive 93/39/EEC (OJ L 214, 24.8.1993, p. 22).~~

danger to human health arising out of the quality of such water is apparent, the population concerned shall promptly be given appropriate advice.

↓ 1998/83 (adapted)  
⇒ new

#### Article 4

##### General obligations

1. Without prejudice to their obligations under other ~~Community~~  Union  provisions, Member States shall take the measures necessary to ensure that water intended for human consumption is wholesome and clean. For the purposes of the minimum requirements of this Directive, water intended for human consumption shall be wholesome and clean if it  meets all the following conditions  :
  - (a)  it  is free from any micro-organisms and parasites and from any substances which, in numbers or concentrations, constitute a potential danger to human health; ~~and~~
  - (b)  it  meets the minimum requirements set out in Annex I, Parts A and B; ~~and if, in accordance with the relevant provisions of Articles 5 to 8 and 10 and in accordance with the Treaty,~~
  - (c) Member States  have taken  ~~take~~ all other measures necessary to ~~ensure that water intended for human consumption complies~~  comply  with the requirements  set out in Articles 5 to 12  of this Directive.
2. Member States shall ensure that the measures taken to implement this Directive in no circumstances have the effect of allowing, directly or indirectly, ~~either~~ any deterioration of the present quality of water intended for human consumption ~~so far as that is relevant for the protection of human health~~ or any increase in the pollution of waters used for the production of ~~drinking~~ water  intended for human consumption  .

#### Article 5

##### Quality standards

1. Member States shall set values applicable to water intended for human consumption for the parameters set out in Annex I  , which shall not be less stringent than the values set out therein  .
- ~~2. The values set in accordance with paragraph 1 shall not be less stringent than those set out in Annex I. As regards the parameters set out in Annex I, Part C, the values need be fixed only for monitoring purposes and for the fulfilment of the obligations imposed in Article 8.~~
- ~~2.3.~~ A Member State shall set values for additional parameters not included in Annex I where the protection of human health within its national territory or part of it so requires. The values set ~~should~~  shall  , as a minimum, satisfy the requirements of Article 4(1)(a).

## Article 6

### Point of compliance

~~1.~~ The parametric values set in accordance with Article 5 ~~⇒~~ for the parameters listed in Annex I, parts A and B, ~~⇐~~ shall be complied with:

- (a) in the case of water supplied from a distribution network, at the point, within premises or an establishment, at which it emerges from the taps that are normally used for human consumption;
- (b) in the case of water supplied from a tanker, at the point at which it emerges from the tanker;
- (c) in the case of ~~⇒~~ spring waters ~~⇐~~ ~~water put into bottles or containers intended for sale~~, at the point at which the water is put into the bottles ~~or containers~~;
- ~~(d) in the case of water used in a food production undertaking, at the point where the water is used in the undertaking;~~

~~2. In the case of water covered by paragraph 1(a), Member States shall be deemed to have fulfilled their obligations under this Article and under Articles 4 and 8(2) where it can be established that non-compliance with the parametric values set in accordance with Article 5 is due to the domestic distribution system or the maintenance thereof except in premises and establishments where water is supplied to the public, such as schools, hospitals and restaurants.~~

~~3. Where paragraph 2 applies and there is a risk that water covered by paragraph 1(a) would not comply with the parametric values established in accordance with Article 5, Member States shall nevertheless ensure that:~~

~~(a) appropriate measures are taken to reduce or eliminate the risk of non-compliance with the parametric values, such as advising property owners of any possible remedial action they could take, and/or~~

~~other measures, such as appropriate treatment techniques, are taken to change the nature or properties of the water before it is supplied so as to reduce or eliminate the risk of the water not complying with the parametric values after supply;~~

~~and~~

~~(b) the consumers concerned are duly informed and advised of any possible additional remedial action that they should take.~~

↓ new

## Article 7

### Risk-based approach to water safety

1. Member States shall ensure that the supply, treatment and distribution of water intended for human consumption is subject to a risk-based approach, composed of the following elements:

- (a) a hazard assessment of bodies of water used for the abstraction of water intended for human consumption, in accordance with Article 8;



- (b) a supply risk assessment carried out by the water suppliers for the purposes of monitoring the quality of the water they supply, in accordance with Article 9 and Annex II, part C;
  - (c) a domestic distribution risk assessment, in accordance with Article 10.
2. Hazard assessments shall be carried out by [3 years after the end-date for transposition of this Directive]. They shall be reviewed every 3 years, and updated where necessary.
  3. Supply risk assessments shall be carried out by very large water suppliers and large water suppliers by [3 years after the end-date for transposition of this Directive], and by small water suppliers by [6 years after the end-date for transposition of this Directive]. They shall be reviewed at regular intervals of no longer than 6 years, and updated where necessary.
  4. Domestic distribution risk assessments shall be carried out by [3 years after the end-date for transposition of this Directive]. They shall be reviewed every 3 years, and updated where necessary.

#### *Article 8*

##### *Hazard assessment of bodies of water used for the abstraction of water intended for human consumption*

1. Without prejudice to Articles 6 and 7 of Directive 2000/60/EC, Member States shall ensure that a hazard assessment is performed covering the bodies of water used for the abstraction of water intended for human consumption that provide more than 10 m<sup>3</sup> a day as an average. The hazard assessment shall include the following elements:
  - (a) identification of and geo-references for all abstraction points in the bodies of water covered by the hazard assessment;
  - (b) mapping of the safeguard zones, where those zones have been established in accordance with Article 7(3) of Directive 2000/60/EC, and the protected areas referred to in Article 6 of that Directive;
  - (c) identification of hazards and possible pollution sources affecting the bodies of water covered by the hazard assessment. To that end, Member States may use the review of the impact of human activity undertaken in accordance with Article 5 of Directive 2000/60/EC and information on significant pressures collected in accordance with point 1.4 of Annex II to that Directive;
  - (d) regular monitoring in the bodies of water covered by the hazard assessment of relevant pollutants selected from the following lists:
    - (i) parameters listed in parts A and B of Annex I to this Directive;
    - (ii) groundwater pollutants listed in Annex I to Directive 2006/118/EC of the European Parliament and of the Council<sup>41</sup>, and pollutants and indicators of pollution for which threshold values have been established by Member States in accordance with Annex II to that Directive;

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<sup>41</sup> Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372, 27.12.2006, p. 19).

- (iii) priority substances and certain other pollutants listed in Annex I to Directive 2008/105/EC of the European Parliament and of the Council<sup>42</sup>;
- (iv) other relevant pollutants, such as microplastics, or river basin specific pollutants established by Member States on the basis of the review of the impact of human activity undertaken in accordance with Article 5 of Directive 2000/60/EC and information on significant pressures collected in accordance with point 1.4 of Annex II to that Directive.

Member States shall select from points (i) to (iv) for monitoring the parameters, substances or pollutants that are considered relevant in light of the hazards identified under point (c) or in light of the information provided by the water suppliers in accordance with paragraph 2.

For the purpose of the regular monitoring, Member States may use the monitoring carried out in accordance with other Union legislation.

2. Those water suppliers that monitor their raw water for the purposes of operational monitoring shall be required to inform the competent authorities of trends and of unusual concentrations of monitored parameters, substances or pollutants.
3. Member States shall inform water suppliers using the body of water covered by the hazard assessment of the results of the monitoring carried out under paragraph 1(d) and may, on the basis of those monitoring results:
  - (a) require water suppliers to carry out additional monitoring or treatment of certain parameters;
  - (b) allow water suppliers to decrease the monitoring frequency of certain parameters, without being required to carry out a supply risk assessment, provided that they are not core parameters within the meaning of Annex II, part B, point 1, and provided that no factor that can be reasonably anticipated is likely to cause deterioration of the quality of the water.
4. In such cases where a water supplier is allowed to decrease the monitoring frequency as referred to in paragraph 2(b), Member States shall continue to regularly monitor those parameters in the body of water covered by the hazard assessment.
5. On the basis of the information collected under paragraphs 1 and 2 and gathered under Directive 2000/60/EC, Member States shall take the following measures in cooperation with water suppliers and other stakeholders, or ensure that those measures are taken by the water suppliers:
  - (a) prevention measures to reduce the level of treatment required and to safeguard the water quality, including measures referred to in Article 11(3)(d) of Directive 2000/60/EC;
  - (b) mitigating measures, which are considered necessary on the basis of the monitoring carried out under paragraph 1(d), in order to identify and address the pollution source.

Member States shall regularly review any such measure.

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<sup>42</sup> Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

## Article 9

### Supply risk assessment

1. Member States shall ensure that water suppliers perform a supply risk assessment providing for the possibility to adjust the monitoring frequency for any parameter listed in Annex I, parts A and B that are not core parameters according to part B of Annex II, depending on their occurrence in the raw water.

For those parameters Member States shall ensure that water suppliers can deviate from the sampling frequencies set out in Annex II, part B, in accordance with the specifications set out in Annex II, part C.

To that end, water suppliers shall be required to take into account the results of the hazard assessment carried out in accordance with Article 8 of this Directive and of the monitoring carried out pursuant to Article 7(1) and Article 8 of Directive 2000/60/EC.

2. Supply risk assessments shall be approved by the competent authorities.

## Article 10

### Domestic Distribution Risk Assessment

1. Member States shall ensure that a domestic distribution risk assessment is performed, comprising the following elements:

- (a) an assessment of the potential risks associated with the domestic distribution systems, and with the related products and materials, and whether they affect the quality of water at the point where it emerges from the taps normally used for human consumption, in particular where water is supplied to the public in priority premises;
- (b) regular monitoring of the parameters listed in Annex I, part C, in premises where the potential danger to human health is considered highest. Relevant parameters and premises for monitoring shall be selected on the basis of the assessment performed under point (a).

With regard to the regular monitoring referred to in the first subparagraph, Member States may set up a monitoring strategy focusing on priority premises;

- (c) a verification of whether the performance of construction products in contact with water intended for human consumption is adequate in relation to the essential characteristics linked to the basic requirement for construction works specified in point 3(e) of Annex I to Regulation (EU) No 305/2011.

2. Where Member States consider, on the basis of the assessment carried out under paragraph 1(a), that there is a risk to human health stemming from the domestic distribution system or from the related products and materials, or where monitoring carried out in accordance with paragraph 1(b) demonstrates that the parametric values set out in Annex I, part C, are not met, Member States shall:

- (a) take appropriate measures to eliminate or reduce the risk of non-compliance with the parametric values set out in Annex I, part C;
- (b) take all necessary measures to ensure that the migration of substances or chemicals from construction products used in the preparation or distribution of

water intended for human consumption does not, either directly or indirectly, endanger human health;

- (c) take other measures, such as appropriate conditioning techniques, in cooperation with water suppliers, to change the nature or properties of the water before it is supplied so as to eliminate or reduce the risk of non-compliance with the parametric values after supply;
- (d) duly inform and advise consumers about the conditions of consumption and use of the water and about possible action to avoid the risk from reoccurring;
- (e) organise training for plumbers and other professionals dealing with domestic distribution systems and the installation of construction products;
- (f) for *Legionella*, ensure that effective control and management measures are in place to prevent and address possible disease outbreaks.

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↓ 1998/83 (adapted)

### *Article 11~~7~~*

#### *Monitoring*

1. Member States shall take all measures necessary to ensure that regular monitoring of the quality of water intended for human consumption is carried out, in order to check that the water available to consumers meets the requirements of this Directive and in particular the parametric values set in accordance with Article 5. Samples ~~should~~ shall be taken so that they are representative of the quality of the water consumed throughout the year. In addition, Member States shall take all measures necessary to ensure that, where disinfection forms part of the preparation or distribution of water intended for human consumption, the efficiency of the disinfection treatment applied is verified, and that any contamination from disinfection by-products is kept as low as possible without compromising the disinfection.

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↓ 1998/83  
⇒ new

2. To meet the obligations imposed in paragraph 1, appropriate monitoring programmes shall be established ⇒ in accordance with Annex II, Part A ⇐ ~~by the competent authorities~~ for all water intended for human consumption. Those monitoring programmes shall ~~meet the minimum requirements set out in Annex II.~~ ⇒ consist of the following elements: ⇐

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↓ new

- (a) monitoring of the parameters listed in Annex I, parts A and B, and of the parameters set in accordance with Article 5(2), in accordance with Annex II, and, where a supply risk assessment is performed, in accordance with Article 9;
- (b) monitoring of the parameters listed in Annex I, part C, for the purposes of the domestic distribution risk assessment, as provided for under Article 10(1)(b);

(c) monitoring, for the purposes of the hazard assessment, as provided for under Article 8(1)(d).

↓ 1998/83

3. The sampling points shall be determined by the competent authorities and shall meet the relevant requirements set out in Annex II, part D.

↓ 596/2009 Art. 1 and Annex .2(2)

~~4. Community guidelines for the monitoring prescribed in this Article may be drawn up in accordance with the management procedure referred to in Article 12(2).~~

↓ 1998/83 (adapted)

~~45.~~ ~~(a)~~ Member States shall comply with the specifications for the analyses of parameters set out in Annex III  , in accordance with the following principles:

~~(a)~~ ~~(b)~~ ~~M~~Methods  of analysis  other than those specified in Annex III, Part ~~A~~, may be used,  provided that  ~~providing~~ it can be demonstrated that the results obtained are at least as reliable as those produced by the methods specified  by providing  ~~Member States which have recourse to alternative methods shall provide~~ the Commission with all relevant information concerning such methods and their equivalence;

~~(b)~~ ~~(c)~~ ~~F~~For those parameters listed in Annex III, Parts ~~2 and 3~~ B, any method of analysis may be used provided that it meets the requirements set out therein.

~~56.~~ Member States shall ensure that additional monitoring is carried out on a case-by-case basis of substances and micro-organisms for which no parametric value has been set in accordance with Article 5, if there is reason to suspect that they may be present in amounts or numbers which constitute a potential danger to human health.

↓ 1998/83

#### Article ~~12~~

##### *Remedial action and restrictions in use*

1. Member States shall ensure that any failure to meet the parametric values set in accordance with Article 5 is immediately investigated in order to identify the cause.
2. If, despite the measures taken to meet the obligations imposed in Article 4(1), water intended for human consumption does not meet the parametric values set in accordance with Article 5, ~~and subject to Article 6(2)~~, the Member State concerned shall ensure that the necessary remedial action is taken as soon as possible to restore its quality and shall give priority to their enforcement action, having regard *inter alia* to the extent to which the relevant parametric value has been exceeded and to the potential danger to human health..

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↓ new

In case of non-compliance with the parametric values set out in Annex I, part C, remedial action shall include the measures set out in points (a) to (f) of Article 10(2).

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↓ 1998/83 (adapted)

⇒ new

3. ~~Regardless of whether or not~~  Regardless of ~~whether or not~~  any failure to meet the parametric values has occurred, Member States shall ensure that any supply of water intended for human consumption which constitutes a potential danger to human health is prohibited or its use restricted ~~or such~~  and that any ~~other~~  remedial ~~action~~  is taken ~~that as is necessary to protect human health. In such cases consumers shall be informed promptly thereof and given the necessary advice.~~  that  as is necessary to protect human health.
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↓ new

Member States shall automatically consider any failure to meet the minimum requirements for parametric values set out in Annex I, parts A and B, as a potential danger to human health.

4. In the cases described in paragraphs 2 and 3, Member States shall as soon as possible take all of the following measures:
- (a) notify all affected consumers of the potential danger to human health and its cause, of the exceedance of a parametric value and of the remedial actions taken, including prohibition, restriction or other action;
  - (b) give, and regularly update, the necessary advice to consumers on conditions of consumption and use of the water, taking particular account of potential vulnerable groups;
  - (c) inform consumers once it has been established that there is no longer a potential danger to human health and inform them that the service has resumed back to normal.
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↓ 1998/83 (adapted)

- ~~45.~~ The competent authorities or other relevant bodies shall decide what action under paragraph 3  shall ~~should~~  be taken, bearing in mind the risks to human health which would be caused by an interruption of the supply or a restriction in the use of water intended for human consumption.

~~5. Member States may establish guidelines to assist the competent authorities to fulfil their obligations under paragraph 4.~~

~~6. In the event of non-compliance with the parametric values or with the specifications set out in Annex I, Part C, Member States shall consider whether that non-compliance poses any risk to human health. They shall take remedial action to restore the quality of the water where that is necessary to protect human health.~~

~~7. Member States shall ensure that, where remedial action is taken, consumers are notified except where the competent authorities consider the non-compliance with the parametric value to be trivial.~~

#### ~~Article 9~~

#### ~~Derogations~~

~~1. Member States may provide for derogations from the parametric values set out in Annex I, Part B, or set in accordance with Article 5(3), up to a maximum value to be determined by them, provided no derogation constitutes a potential danger to human health, and provided that the supply of water intended for human consumption in the area concerned cannot otherwise be maintained by any other reasonable means.~~

~~Derogations shall be limited to as short a time as possible and shall not exceed three years, towards the end of which a review shall be conducted to determine whether sufficient progress has been made. Where a Member State intends to grant a second derogation, it shall communicate the review, along with the grounds for its decision on the second derogation, to the Commission. No such second derogation shall exceed three years.~~

~~2. In exceptional circumstances, a Member State may ask the Commission for a third derogation for a period not exceeding three years. The Commission shall take a decision on any such request within three months.~~

~~3. Any derogation granted in accordance with paragraphs 1 or 2 shall specify the following:~~

~~(a) the grounds for the derogation;~~

~~(b) the parameter concerned, previous relevant monitoring results, and the maximum permissible value under the derogation;~~

~~(c) the geographical area, the quantity of water supplied each day, the population concerned and whether or not any relevant food production undertaking would be affected;~~

~~(d) an appropriate monitoring scheme, with an increased monitoring frequency where necessary;~~

~~(e) a summary of the plan for the necessary remedial action, including a timetable for the work and an estimate of the cost and provisions for reviewing;~~

~~(f) the required duration of the derogation.~~

~~4. If the competent authorities consider the non-compliance with the parametric value to be trivial, and if action taken in accordance with Article 8(2) is sufficient to remedy the problem within 30 days, the requirements of paragraph 3 need not be applied.~~

~~In that event, only the maximum permissible value for the parameter concerned and the time allowed to remedy the problem shall be set by the competent authorities or other relevant bodies.~~

~~5. Recourse may no longer be had to paragraph 4 if failure to comply with any one parametric value for a given water supply has occurred on more than 30 days on aggregate during the previous 12 months.~~

~~6. Any Member State which has recourse to the derogations provided for in this Article shall ensure that the population affected by any such derogation is promptly informed in an appropriate manner of the derogation and of the conditions governing it. In addition the Member State shall, where necessary, ensure that advice is given to particular population groups for which the derogation could present a special risk.~~

~~These obligations shall not apply in the circumstances described in paragraph 4 unless the competent authorities decide otherwise.~~

~~7. With the exception of derogations granted in accordance with paragraph 4 a Member State shall inform the Commission within two months of any derogation concerning an individual supply of water exceeding 1000 m<sup>3</sup> a day as an average or serving more than 5000 persons, including the information specified in paragraph 3.~~

~~8. This Article shall not apply to water intended for human consumption offered for sale in bottles or containers.~~

#### ~~Article 10~~

##### ~~Quality assurance of treatment, equipment and materials~~

~~Member States shall take all measures necessary to ensure that no substances or materials for new installations used in the preparation or distribution of water intended for human consumption or impurities associated with such substances or materials for new installations remain in water intended for human consumption in concentrations higher than is necessary for the purpose of their use and do not, either directly or indirectly, reduce the protection of human health provided for in this Directive; the interpretative document and technical specifications pursuant to Article 3 and Article 4 (1) of Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products<sup>43</sup> shall respect the requirements of this Directive.~~

↓ new

#### Article 13

##### Access to water intended for human consumption

1. Without prejudice to Article 9 of Directive 2000/60/EC, Member States shall take all necessary measures to improve access for all to water intended for human consumption and promote its use on their territory. This shall include all of the following measures:
  - (a) identifying people without access to water intended for human consumption and reasons for lack of access (such as belonging to a vulnerable and marginalised group), assessing possibilities to improve access for those people and informing them about possibilities of connecting to the distribution network or about alternative means to have access to such water;
  - (b) setting up and maintaining outdoors and indoors equipment for free access to water intended for human consumption in public spaces;

<sup>43</sup> OJ L 40, 11.2.1989, p. 12. Directive as last amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).



- (c) promoting water intended for human consumption by:
  - (i) launching campaigns to inform citizens about the quality of such water;
  - (ii) encouraging the provision of such water in administrations and public buildings;
  - (iii) encouraging the free provision of such water in restaurants, canteens, and catering services.

- 2. On the basis of the information gathered under paragraph 1(a), Member States shall take all necessary measures to ensure access to water intended for human consumption for vulnerable and marginalised groups.

In case those groups do not have access to water intended for human consumption, Member States shall immediately inform them of the quality of the water they are using and of any action that can be taken to avoid adverse effects on human health resulting from any contamination of that water.

#### *Article 14*

##### *Information to the public*

- 1. Member States shall ensure that adequate and up-to-date information on water intended for human consumption is available online to all persons supplied, in accordance with Annex IV.
- 2. Member States shall ensure that all persons supplied receive regularly and at least once a year, and in the most appropriate form (for instance on their invoice or by smart applications) without having to request it, the following information:
  - (a) information on the cost structure of the tariff charged per cubic metre of water intended for human consumption, including fixed and variable costs, presenting at least costs related to the following elements:
    - (i) measures taken by water suppliers for the purposes of the hazard assessment pursuant to Article 8(5);
    - (ii) treatment and distribution of water intended for human consumption;
    - (iii) waste water collection and treatment;
    - (iv) measures taken pursuant to Article 13, in case such measures have been taken by water suppliers;
  - (b) the price of water intended for human consumption supplied per litre and cubic metre;
  - (c) the volume consumed by the household, at least per year or per billing period, together with yearly trends of consumption;
  - (d) comparisons of the yearly water consumption of the household with an average consumption for a household in the same category;
  - (e) a link to the website containing the information set out in Annex IV.

The Commission may adopt implementing acts specifying the format of, and modalities to present, the information to be provided under the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2).

3. Paragraphs 1 and 2 are without prejudice to Directives 2003/4/EC and 2007/2/EC.

### Article 15

#### *Information on monitoring of implementation*

1. Without prejudice to Directive 2003/4/EC and Directive 2007/2/EC, Member States, assisted by the European Environment Agency, shall:
- (a) set up by ... [6 years after the end-date for transposition of this Directive], and update every 6 years thereafter, a data set containing information on the measures taken under Article 13, and on the share of their population that has access to water intended for human consumption;
  - (b) set up by ... [3 years after the end-date for transposition of this Directive], and update every 3 years thereafter, a data set containing the hazard and domestic distribution risk assessments performed in accordance with Articles 8 and 10, respectively, including the following elements:
    - (i) the abstraction points identified under Article 8(1)(a);
    - (ii) the monitoring results collected in accordance with Article 8(1)(d) and Article 10(1)(b); and
    - (iii) concise information on measures taken pursuant to Article 8(5) and Article 10(2);
  - (c) set up, and update annually thereafter, a data set containing monitoring results, in cases of exceedances of the parametric values set in Annex I, parts A and B, collected in accordance with Articles 9 and 11 and information about the remedial actions taken in accordance with Article 12;
  - (d) set up, and update annually thereafter, a data set containing information on drinking water incidents that have caused potential danger to human health, regardless of whether any failure to meet the parametric values occurred, that lasted for more than 10 consecutive days and that affected at least 1 000 people, including the causes of those incidents and remedial actions taken in accordance with Article 12.

Where possible, spatial data services as defined in Article 3(4) of Directive 2007/2/EC shall be used to present those data sets.

2. Member States shall ensure that the Commission, the European Environment Agency and the European Centre for Disease Prevention and Control have access to the data sets referred to in paragraph 1.
3. The European Environment Agency shall publish and update a Union-wide overview on the basis of the data collected by the Member States on a regular basis or following receipt of a request from the Commission.
- The Union-wide overview shall include, as appropriate, indicators for outputs, results and impacts of this Directive, Union-wide overview maps and Member State overview reports.
4. The Commission may adopt implementing acts specifying the format of, and modalities to present, the information to be provided in accordance with paragraphs 1

and 3, including detailed requirements regarding the indicators, the Union-wide overview maps and the Member State overview reports referred to in paragraph 3.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 20(2).

## Article 16

### Access to justice

1. Member States shall ensure that, natural or legal persons or their associations, organisations or groups, in accordance with national legislation or practice, have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, actions or omissions related to the implementation of Articles 4, 5, 12, 13, and 14, when one of the following conditions is fulfilled:

(a) they have a sufficient interest;

(b) they maintain the impairment of a right, where the administrative procedural law of the relevant Member State requires this as a precondition.

2. Member States shall determine at what stage decisions, acts or omissions may be challenged.

3. What constitutes a sufficient interest and impairment of a right shall be determined by Member States, consistently with the objective of giving the public concerned wide access to justice.

To that end, the interest of any non-governmental organisation promoting environmental protection and meeting the requirements under national law shall be deemed sufficient for the purposes of paragraph 1(a).

Such organisations shall also be deemed to have rights capable of being impaired for the purposes of paragraph 1(b).

4. Paragraphs 1, 2 and 3 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

5. Any such review procedure referred to in paragraph 1 and 4 shall be fair, equitable, timely and not prohibitively expensive.

~~6.~~ Member States shall ensure that information is made available to the public on access to administrative and judicial review procedures.

## Article 17

### Evaluation

1. The Commission shall, by [12 years after the end-date for transposition of this Directive], carry out an evaluation of this Directive. The evaluation shall be based, *inter alia*, on the following elements:

(a) the experience gathered with the implementation of this Directive;

- (b) the data sets from Member States set up in accordance with Article 15(1) and the Union-wide overviews compiled by the European Environment Agency in accordance with Article 15(3);
  - (c) relevant scientific, analytical and epidemiological data;
  - (d) World Health Organisation recommendations, where available.
2. In the context of the evaluation, the Commission shall pay particular regard to the performance of this Directive concerning the following aspects:
- (a) the risk-based approach set out in Article 7;
  - (b) provisions related to access to water set out in Article 13;
  - (c) provisions concerning the information to be provided to the public under Article 14 and Annex IV.

↓ 1998/83 (adapted)

*Article ~~18~~*

*Review ~~and~~ and amendment ~~of~~ of Annexes*

1. At least every five years, the Commission shall review Annex I in the light of scientific and technical progress ~~and shall make proposals for amendments, where necessary, under the procedure laid down in Article 189c of the Treaty.~~

↓ new

The Commission shall, on the basis of Member States' hazard and domestic distribution risk assessments contained in the data sets set up pursuant to Article 15, review Annex II and assess whether there is a need to adapt it or to introduce new monitoring specifications for the purposes of those risk assessments.

↓ 596/2009 Art. 1 and Annex .2(2)

~~2. At least every five years, the Commission shall amend Annexes II and III to make the necessary adaptations to scientific and technical progress.~~

~~Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).~~

↓ new

2. The Commission is empowered to adopt delegated acts in accordance with Article 19 amending Annexes I to IV where necessary, to adapt them to scientific and technical progress or to specify monitoring requirements for the purposes of the hazard and domestic distribution risk assessments pursuant to Article 8(1)(d) and Article 10(1)(b).

## Article 19

### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 18(2) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Directive].
3. The delegation of power referred to in Article 18(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 18(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

↓ 1882/2003 Art. 2 and Annex  
II.29 (adapted)  
⇒ new

## Article ~~2012~~

### ⊠ Committee procedure ⊠

1. The Commission shall be assisted by a committee. ⊠ That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. ⊠
2. Where reference is made to this ~~Article paragraph~~, ⇒ Article 5 of Regulation (EU) No 182/2011 ⊠ ~~Articles 4 and 7 of Decision 1999/468/EC<sup>44</sup> shall apply, having regard to the provisions of Article 8 thereof.~~  
~~The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.~~

<sup>44</sup> ~~Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).~~

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↓ 596/2009 Art. 1 and Annex  
.2(2)

~~3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

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↓ 1998/83

~~Article 13~~

~~Information and reporting~~

~~1. Member States shall take the measures necessary to ensure that adequate and up-to-date information on the quality of water intended for human consumption is available to consumers.~~

~~2. Without prejudice to Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment<sup>45</sup>, each Member State shall publish a report every three years on the quality of water intended for human consumption with the objective of informing consumers. The first report shall cover the years 2002, 2003 and 2004. Each report shall include, as a minimum, all individual supplies of water exceeding 1 000 m<sup>3</sup> a day as an average or serving more than 5 000 persons and it shall cover three calendar years and be published within one calendar year of the end of the reporting period.~~

~~3. Member States shall send their reports to the Commission within two months of their publication.~~

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↓ 596/2009 Art. 1 and Annex  
.2(2)

~~4. The formats and the minimum information for the reports provided for in paragraph 2 shall be determined having special regard to the measures referred to in Article 3(2), Article 5(2) and (3), Article 7(2), Article 8, Article 9(6) and (7) and Article 15(1), and shall if necessary be amended in accordance with the management procedure referred to in Article 12(2).~~

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↓ 1998/83

~~5. The Commission shall examine the Member States' reports and, every three years, publish a synthesis report on the quality of water intended for human consumption in the Community. That report shall be published within nine months of the receipt of the Member States' reports.~~

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↓ 596/2009 Art. 1 and Annex  
.2(2)

~~6. Together with the first report on this Directive as mentioned in paragraph 2, Member States shall also produce a report to be forwarded to the Commission on the measures they have taken or plan to take to fulfil their obligations pursuant to Article 6(3) and Annex I, Part B, note~~

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<sup>45</sup> OJ L 158, 23.6.1990, p. 56.

~~10. As appropriate, a proposal on the format of this report shall be submitted in accordance with the management procedure referred to in Article 12(2).~~

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↓ 1998/83

#### ~~Article 14~~

##### ~~Timescale for compliance~~

~~Member States shall take the measures necessary to ensure that the quality of water intended for human consumption complies with this Directive within five years of its entry into force, without prejudice to Notes 2, 4 and 10 in Annex I, Part B.~~

#### ~~Article 15~~

##### ~~Exceptional circumstances~~

~~1. A Member State may, in exceptional circumstances and for geographically defined areas, submit a special request to the Commission for a period longer than that laid down in Article 14. The additional period shall not exceed three years, towards the end of which a review shall be carried out and forwarded to the Commission which may, on the basis of that review, permit a second additional period of up to three years. This provision shall not apply to water intended for human consumption offered for sale in bottles or containers.~~

~~2. Any such request, grounds for which shall be given, shall set out the difficulties experienced and include, as a minimum, all the information specified in Article 9(3).~~

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↓ 596/2009 Art. 1 and Annex  
.2(2)

~~3. That request shall be examined in accordance with the management procedure referred to in Article 12(2).~~

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↓ 1998/83

~~4. Any Member State which has recourse to this Article shall ensure that the population affected by its request is promptly informed in an appropriate manner of the outcome of that request. In addition, the Member State shall, where necessary, ensure that advice is given to particular population groups for which the request could present a special risk.~~

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↓ new

#### ~~Article 21~~

##### ~~Penalties~~

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by ... [2 years after entry into force of this Directive], notify

the Commission of those rules and those measures and shall notify it of any subsequent amendment affecting them.

↓ 1998/83 (adapted)

Article ~~17~~ 22

*Transposition ~~into national law~~*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with  Articles 2 and 5 to 21 and Annexes I to IV by ... [2 years after entry into force of this Directive]  ~~this Directive within two years of its entry into force~~. They shall ~~forthwith inform~~  immediately communicate the text of those measures to  the Commission ~~thereof~~.

When ~~the~~ Member States adopt those measures, ~~these~~  they  shall contain  a  references to this Directive or shall be accompanied by such  a  references on the occasion of their official publication.  They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive.  ~~The methods of making such references shall be laid down by the~~ Member States  shall determine how such reference is to be made and how that statement is to be formulated .

2. ~~The~~ Member States shall communicate to the Commission the texts of the  main  provisions of national law which they adopt in the field covered by this Directive.

Article ~~16~~ 23

*Repeal*

1. Directive ~~80/778/EEC~~  98/83/EC, as amended by the instruments listed in Annex V, Part A,  is hereby repealed with effect from  [day after the date in the first subparagraph of Article 22(1)]  ~~five years after the entry into force of this Directive~~. Subject to paragraph 2, ~~this repeal shall be~~ without prejudice to Member States'  the  obligations  of the Member States relating to the time-limits  regarding deadlines for  the  transposition into national law ~~and for application as shown~~  of the Directives set out  in Annex ~~IV~~, Part B.

~~Any~~ References to the repealed Directive shall be construed as a reference  references  to this Directive and shall be read in accordance with the correlation table ~~set out~~ in Annex VI.

~~As soon as a Member State has brought into force the laws, regulations and administrative provisions necessary to comply with this Directive and has taken the measures provided for in Article 14, this Directive, not Directive 80/778/EEC, shall apply to the quality of water intended for human consumption in that Member State.~~



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↓ new

2. Derogations granted by Member States in accordance with Article 9 of Directive 98/83/EC that are still applicable by [end-date for transposition of this Directive] shall remain applicable until the end of their duration. They may not be renewed further.

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↓ 1998/83 (adapted)

*Article ~~18~~ 24*

*Entry into force*

This Directive shall enter into force on the ~~20th~~ twentieth day following that of its publication in the *Official Journal of the European Communities* Union .

*Article ~~25~~ 19*

*Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*