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COMMISSION STAFF WORKING DOCUMENT

Synopsis Report Stakeholder Consultation

Accompanying the document

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the quality of water intended for human consumption (recast)

{COM(2017) 753 final} - {SWD(2017) 448 final} - {SWD(2017) 449 final}

Synopsis report of the consultation work for the revision of the Drinking Water Directive

1. Introduction

For the revision of the Drinking Water Directive (Council Directive 98/93/EC) several consultation activities in accordance with the Better Regulation Guidelines[1] took place. The start of the consultation activities was marked by an open public consultation on the quality of drinking water in June 2014.

In the consultations input from a wide range of stakeholders was sought with a focus on the main objective of the DWD, namely the provision of high quality drinking water to EU citizens. The focus in the consultations was on (1) the scope of the Directive, (2) the actual content of the Directive, namely the approach to monitoring and the parameter list, (3) new topics such as materials and products in contact with drinking water, as well as (4) improved contact with consumers when it comes to drinking water e.g. through information provision. During the various consultation activities, stakeholders also had the opportunity to submit their views on concrete options that were developed for the IA.

In line with the Better Regulation Guidelines[2] and under consideration of the circumstances, the Evaluation and the Impact Assessment of the Directive were done back to back. Through the open public consultation and follow-up consultation activities it was ensured that all stakeholders were consulted and kept informed about the revision process. In this regard the broad open public consultation proved very valuable as during the process of preparing, conducting and evaluating the survey, the main stakeholder groups were identified. Consequently, key associations acting as multipliers served to ensure the systemic information distribution and the continuous consultation of all relevant stakeholders. The input and the feedback from the various stakeholders fed into the decision-making process for the revision of the DWD.

In this document an analysis of the contributions of the stakeholders is summarised. Some suggestions by stakeholders were, after careful consideration, regarded as being out of scope for the DWD but will potentially be addressed by other means. These included for example: water supply affordability, encouragement of water safety, better education etc... Nevertheless, all topics raised in the consultation activities were considered to be highly valuable for informing the revision of the DWD.

2. Stakeholder groups consulted for the revision

In line with the assessment of relevant stakeholders that need to be considered for the revision of the DWD, the following ones were consulted:

- Water Associations

[1] 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.

[2] http://ec.europa.eu/smart-regulation/guidelines/ug_chap7_en.htm

- Member States in a targeted consultation since 2015 and regularly through the Expert Group
- Industrial associations from various sectors that are related in their activities to drinking water, or that identify themselves as being concerned by a revision of the DWD
- Non-governmental organizations related in their activities to consumer protection, nature, environmental protection, human rights etc.
- Citizens of the European Union
- Interest groups such as scientists, professional and experts in the field, academics etc.
- Other EU institutions (EEA, EFSA, EESC…)

All of the above mentioned stakeholders provided significant input that supported the revision activities conducted by the Commission services. Particularly relevant was also the support by the WHO as well as contacts with those supporting the Right2Water initiative.

3. Approach to consultation and inclusion of other information sources

The revision process of the DWD was triggered by the ECI Right2Water[3]. It considered the REFIT approach by the European Commission. A further important source was the "safe2drink.eu" project that supported the Commission with the analysis of consultations.

For the open public consultation 5908 answers and 138 opinions were received as well position papers from key stakeholders.[4] Roughly 88 % of the responses came from citizens and the remaining 12 % were submitted by stakeholders such as institutions or experts in the field. In addition to citizens' answers to the online survey, 80 EU citizens sent detailed emails in response to the consultation. Responses came from all EU countries; however some MS were over-represented (Germany, Austria, Portugal, Cyprus and Ireland when compared to their respective population share). Other MS such as Poland, Denmark, the UK, Sweden and Estonia were underrepresented. This imbalance was corrected in the analyses of the answers.

Apart from the open public consultation, which lasted from June 2014 until September 2014, several other consultation activities were carried out to ensure that all relevant stakeholders can contribute to the revision:

In September 2014 and in October 2015 Stakeholder Dialogue on Transparency and Benchmarking launched, two dialogues were performed[5].

A targeted public stakeholder consultation conference reaching a wide range of stakeholders including national and regional authorities, representatives of industry and business associations, as well as companies and experts was organised in May 2015 for the REFIT Evaluation. A specific internet-based Consultation page[6] was created and stakeholders had

[3] http://www.right2water.eu/node/37/view

[4] Consultation Report https://circabc.europa.eu/sd/a/0070b535-5a6c-4ee4-84ba-6f6eb1682556/Public%20Consultation%20Report.pdf

[5] Summary Report: https://circabc.europa.eu/w/browse/4fa04ec0-2b16-409a-b5b1-edbb6ffd6287

[6] www.safe2drink.eu including a specific functional mailbox safe2drink@ecorys.com

more than three months to submit their input and feedback. Important documents were further publicly available in a specific folder on the Commission's data repository CIRCABC[7].

A further Stakeholder Conference on the review and on possible options took place as a public hearing in December 2015 for which a background document[8] was distributed beforehand. At the conference, a specific questionnaire/ evaluation form[9] was handed out and electronically issued, and all presentations and minutes including participants list were made publicly available.[10] This conference also targeted a wide range of stakeholders.

In the beginning of 2016, Member States were contacted digitally for their input and had time until May 2016[11] to respond. In total 15 responses to the questionnaire and 16 position papers were registered, simultaneously a seminar on drinking water protection was held in January 2016.

The Commission co-organised with WHO a large stakeholder consultation on the drinking water parameters on 23 September 2016 in Brussels. This conference aimed at collecting input to adapt the drinking water standards to scientific and technical progress. Draft versions of the report were made available before and are publicly accessible[12]. At the conference the underlying rationale and preliminary findings of the project, including possible proposals for the revision of Annex I of the Directive, were presented and discussed. In addition to the feedback received during the consultation, all Member States and stakeholders were invited to submit written feedback on the draft background papers presented at the consultation. Updates were presented to the Drinking Water Expert Group in March 2017. All relevant feedback was considered during the preparation of the WHO report. A detailed annotated log of the feedback including comments on individual parameters is provided in Appendix 2 of the final WHO report.

After the publication of the Inception Impact Assessment on the new portal on the Better Regulation Website on 28/02/2017 stakeholders had the opportunity to provide feedback until 28/03/2017. The feedback mechanism registered 32 replies. These replies came again from a wide range of stakeholders, including citizens, business associations and industry representatives' as well environmental organisations and local authorities.

In March 2017 the Commission published the supporting Impact Assessment Study. After its publication stakeholders had the opportunity to provide their feedback from March until end of April 2017 to DG Environment.

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[7] https://circabc.europa.eu/w/browse/3fccab4b-812d-46be-8efe-1f866cf556c5

[8] https://circabc.europa.eu/sd/a/ec261386-9b0c-4fd0-9037-3db85070517b/DWD_stakeholder%20workshop_background%20document_final.pdf

[9] http://www.safe2drink.eu/dwd_stakeholder-workshop_evaluation-form/

[10] http://www.safe2drink.eu/wp-content/uploads/2016/02/Meeting-report-8-12-2015.pdf

[11] https://circabc.europa.eu/sd/a/52c8b4f5-7df5-43fb-a573-f00967a2e4f4/Item%208%20Review%20Draft%20Policy%20options%20for%20revision.pdf (see slides 15/16)

[12] https://circabc.europa.eu/w/browse/b6bb0d99-8c88-4b9d-9a14-68a0f2695e6d

4. Summary results of stakeholder consultations

In the following chapter the analyses of the stakeholder consultations are summarised. To present a complete picture of the input, feedback and ideas that were received, the summary is structured according to topics[13]. Divergent opinions from stakeholder groups as well as interdependencies, consistencies or contradictions among groups are pointed out where deemed necessary. Generally it can be said that the DWD is considered to be a relevant part of the EU legislative framework to ensure the protection of the consumer. Nevertheless, considering the age of the DWD, the aim of revising the DWD is in general supported by all relevant stakeholders.

Firstly, some key examples from the report on the open public consultation are presented. The consultation clearly supported the update and revision of drinking water parameters. The responses highlighted the following threats of pollution from agriculture, from industrial sources, and from human consumption and inadequate waste water treatment. Additionally, the consultation also asked about further aspects and possible policy options. The responses support harmonised materials in contact with drinking water, incentives to save water, and to cover the entire supply chain. A strong message from the consultation, especially mentioned by EU citizens, was the wish for more up-to-date online information.

Overview of the main topics addressed by stakeholders in the consultation activities

Quality of drinking water and current monitoring activities

The main threats to the quality of drinking water were seen in 'pollution from agriculture' (especially from MS: DE, CZ, UK-Scotland) and from 'industrial sources', a bit less but also perceived as very threatening is 'pollution through exploitation and exploration of hydrocarbons'. Stakeholders and experts perceive a higher threat to quality of drinking water than citizens as is visible from the open public consultation.

Stakeholders agreed that the current DWD is not effective enough regarding the protection of human health from certain microbiological substances such as legionella. For monitoring and transparency provisions a variety of approaches were suggested. Some MS and water suppliers/associations (BE, CZ, FR, NO and UK; EurEau, WHP, United Utilities, Dwr Cymru Welsh Water, CC Water) favour a risk-based approach. From those who have responded to the stakeholder consultations only the Baden-Württemberg municipalities (DE) support the current approach in scope and frequency.

Furthermore, alignment and consistency among EU legislations (i.e. the WFD, the Groundwater Directive, and the Construction Products Regulation) is crucial to avoid unnecessary administrative burden, also with regard to monitoring and reporting requirements. If there is insufficient harmonization between standards, water supply companies are forced to use more treatment than actually needed.

[13] As also pointed out in the analysis of the open public consultation survey, many respondents did not specify their institution or sector, and therefore a structure according to topics rather than stakeholder groups was preferred.

Risk-based approach

Risk-based approaches, for example implemented by water safety plans are considered to deliver key complementary elements for the provision of safe drinking water. Many stakeholders argued that guidelines on details of risk management should be developed. Regarding a change in the monitoring method, the inclusion of all stakeholders is indispensable: for example also communication with consumers appears to be very important in the context of risk management, as consumers might otherwise perceive flexibility as less safety in their drinking water. When developing and implementing water safety plans, better cooperation with authorities working with the Water Framework Directive (WFD) and better interaction with its implementation will be a crucial element for protecting drinking water from source to tap.

Parameters and emerging substances

In all consultation activities the need for revising and extending the list of parameters in the DWD were mentioned by the entire range of stakeholders. From a Member States perspective, some were clearly in favour of an extended list (e.g. Denmark, Malta, Cyprus and Luxembourg), whereas others do not want to see a price hike arising out of a too broad extension (e.g. GR, ES, HR). Only a couple of stakeholders, namely Baden-Württemberg municipalities (DE) and Vienna Water (AT) argue that the status quo is sufficient. From those who have responded to the stakeholder consultations French and English farmers opposed the unnecessary stringent regulations and changes to the DWD. A focus and support for closer monitoring was seen by a large majority of stakeholders for endocrine disruptors (87 %), pharmaceuticals (85 %), substances used in consumer products (87 %) and faecal matter, pathogenic germs, parasites and viruses (81 %). This strongly supportive feedback for the revision of the parameter list was used as the basis for the establishment of a cooperation project with the WHO.

On emerging substances, some stakeholders mainly from water suppliers but as well from Member States authorities suggested that the DWD should not regulate these substances, but define firstly approaches on how to deal with them. However, many stakeholders also invoked the need for keeping the Precautionary Principle as the leading principle in this regard.

Materials and products in contact with drinking water

Early on in the consultation activities the topic of materials and products in contact with drinking water was raised. Generally stakeholders from business associations as well as from consumer associations and from authorities argued in favour of the harmonization of materials and products in contact with drinking water. From Germany a proactive campaign for this topic was visible in the 51 individually submitted but content-wise same answers to the survey of the open public consultation.

On materials and products in contact with drinking water a common methodology should be developed, as indeed the current situation prevailing appears unsatisfactory[14] as was stated by business associations. According to the business associations this would lessen the burden on companies and strengthen consumer and health protection. Further considerations should be based on the results of the ongoing assessment within the study commissioned by the Commission.

Access to and content of information for the consumer

About 58.5 % of the EU citizens that responded to the open public consultation see themselves as being generally well-informed; however, this varies strongly depending on their origin MS[15]. Almost all stakeholders mentioned either via responding to the survey or through other forms of feedback (i.e. direct emails) their wish for more up-to-date online information on the quality of drinking water.

Regarding the content, information on how analyses are performed and on parameter values is wished for in general. Stakeholders do not have a convergent view on the depth and width of information they wish for, but do agree that online publication is an adequate way. Some water suppliers and other business associations are against the supply of too much information. Generally the use of new technologies for the distribution of information seems to be supported by stakeholders from MS, institutions, expert backgrounds etc.

This triggered the decision-making process of including the provision of smart information as a option in the Impact Assessment.

Consumer confidence in drinking water

All stakeholders agreed that efforts are required to boost consumer confidence in drinking water quality. Upon the question of a 'water quality label', such a label may not be compared with existing energy consumption labels, as indeed for drinking water limit values are established – making the term 'safe drinking water' operational in numerical values. Positive experience with a drinking water App has been reported from Portugal.

Access to drinking water

Although most citizens that replied to the open public consultation believe that they themselves have good access to drinking water, this is not the case for all, in particular for the poorer segment of the population ('bottom 40 %'). Access to drinking water could be addressed in an approach similar to the one already existing on waste water, i.e. an obligation

[14] 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; . . . . ."

[15] The range of satisfaction with the level of information about the drinking water quality by countries varies significantly from 18 % Luxembourg to as high as 85 % for Austria (see Public Consultation report by Ecorys, p. 29)

for Member States to provide their citizens with safe drinking water. With the idea of providing access to drinking water initially brought forward by the ECI Right2Water[16], also during the process of the consultations especially citizens stressed the importance for having access to water as a human right.[17] The results of the open public consultation have shown that supporters of the ECI Right2Water submitted 186 times the same text to the survey and provided 41 position papers with the same text to cement their position.

The access to water is generally seen by stakeholders across the line as important, however, many wish for national approaches to this, also under the consideration that some MS already have legislation in this regard in place. In this context, the scope of the DWD was often discussed. Many stakeholders, both institutions and citizens, stated that right to water issues should be considered exclusively under the human right approach, that water should be regarded as a public good, not as a commodity, and all taxes for the water services should work on the principle of cost-recovery (EPHA (INT), UGT (ES)), Unite the Union (UK), EPSU (INT), United Services Union (DE), Irish Coalition against Water Charges, Stakeholders (SK), CA (UK), EFFAT (INT)).

Further topics raised in the consultations

Recurrently, in different consultation activities, the following topics were raised. These were also consequently explicitly or implicitly addressed or taken up in the IA:

- Business associations from the bottled water industry were surprised about the link between the circular economy and the DWD and stress that no discrimination against a healthy product such as bottled water should be attempted and that further the environmental impact of bottled water is scientifically unfounded.
- Regarding the improvement of efficiency, benchmarking is considered an important element of efficient water management. However such benchmarking should be done at national / regional level and not EU-wide (argument mainly made by Member States).
- On reporting for small water supply zones no consensus among stakeholders is visible: whereas some do not want to impose reporting obligations, others see an urgent need to do so. The administrative burden for small water supplies has to be considered: Small supplies should not directly report, but the data could be assembled at regional or national level before being reported to the Commission. New technologies and approaches would need to be used, along the lines already established for bathing water and waste water data.

Responses from National Parliaments

The French National Parliament submitted a position paper in the time frame of the open public consultation. The French Parliament regretted that the questionnaire did not explicitly ask a question about the right to water and sanitation.

The main comments on the Impact Assessment Study by stakeholders were:

[16] Right2Water European Citizens' Initiative with more than 1.6 million signatures.

[17] https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-1061434/feedback_en

- Public operators have questions on transparency and SMART information – they mainly fear comparisons of costs as they could not reflect those associated with their public mission;
- Bottled water industry contested that consumption of bottled water is used as an indicator for confidence in tap water**.**
- Stakeholders representing the industry as well as Member States call for the harmonization of materials and products in contact with drinking water (Article 10 in the existing legislation). The lack of harmonization is perceived as an obstacle to the internal market.
- Some stakeholders have misunderstood the meaning of the theoretical health indicator used for modelling in the IA.

5. Conclusion

Stakeholders from Member States and industry showed support for the existence of the DWD and agreed that, although not necessarily quantifiably, the DWD supported and still supports the improvement of the drinking water quality in the EU. Most stakeholders from all backgrounds support in general the revision of the DWD especially regarding parameters and new monitoring approaches under the provision that costs and benefits are considered throughout the revision process. Stakeholders from agriculture however argued against strengthening parameters related to agriculture like nitrate and pesticides.

Closer unity among stakeholders can be found on the topic of expanding the list of parameters. Except for a few exemptions, many are in favour for including more substances in the list, as well as revising the thresholds provided for the already included substances. This clear support was taken up by the Commission services and throughout the revision phase. A project cooperation with the WHO ensured that the developed parameter list relies on highest scientific standards without losing sight of underlying EU approaches to risks, such as the Precautionary Principle.

Stakeholders representing the industry as well as Member States have called for the harmonization of materials and products in contact with drinking water (Article 10 in the existing legislation). The lack of harmonization is perceived as an obstacle to the internal market. This topic was consequently discussed and approached together with DG GROW under the Regulation for Construction Products.

All of the topics raised by the stakeholders were considered throughout the Evaluation and the Impact Assessment and informed thereby the decision-making process of the Commission service. Through the manifold consultation activities that took place over the revision phase, it was possible to re-discuss topics with stakeholders, clarify positions and to reach consensus on many items.