

Revision of the Drinking Water Directive

OVERVIEW

On 1 February 2018, the European Commission published a proposal for a recast of the Directive on the quality of water intended for human consumption (the Drinking Water Directive). The proposal responds to the European Citizens' Initiative, Right2Water, and builds on a fitness check which concluded that the 20-year old directive is fit for purpose, but needs updating. The main elements of the proposal consist of updating the water quality standards, introducing a risk-based approach to the monitoring of water, improving and streamlining the information provided to consumers, harmonising the standards for products in contact with drinking water, and imposing obligations to improve access to water. In the European Parliament, the Committee on Environment, Public Health and Food Safety (ENVI) adopted its report on 10 September 2018. A plenary vote on the committee's report, and on opening interinstitutional negotiations, is due to take place in October.

Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast)		
Committee responsible:	Environment, Public Health and Food Safety (ENVI)	COM(2017) 753 1.2.2018
Rapporteur:	Michel Dantin (EPP, France)	2017/0332(COD)
Shadow rapporteurs:	Rory Palmer (S&D, United Kingdom) Jørn Dohrmann (ECR, Denmark) Ulrike Müller (ALDE, Germany) Lynn Boylan (GUE/NGL, Ireland) Benedek Jávor (Greens/EFA, Hungary) Eleonora Evi (EFDD, Italy) Sylvie Goddyn (ENF, France)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
Next steps expected:	First-reading vote in plenary	



Introduction

This proposal comes as a result of a Regulatory Fitness and Performance programme (REFIT) evaluation, responds to the European Citizens' Initiative, Right2Water, and contributes to meeting the targets of the United Nations' sustainable development goals. It also contributes to the transition to a circular economy by helping EU Member States to manage drinking water in a resource-efficient, sustainable manner, and aims to reduce the use of plastic bottles.

Existing situation

The 1998 [Drinking Water Directive](#) aims to ensure that water intended for human consumption is safe. The directive requires that drinking water be free of any microorganisms, parasites or substances that could potentially endanger human health. It sets standards for the most common, potentially harmful organisms and substances that can be found in drinking water.

The directive requires Member States to monitor and regularly test 48 **microbiological, chemical and indicator parameters**.

- The two **microbiological** parameters, *Escherichia coli* (*E. coli*) and enterococci must be absent from samples.¹
- 26 **chemical** parameters, (such as arsenic, nickel, lead and pesticides), are set because of their impact on human health: therefore, exceedances of the values set for them require Member States to take remedial action.
- Most of the 20 **indicator** parameters, (such as chloride, sodium, taste, odour and turbidity), do not pose a direct threat to human health; nonetheless, they have indirect relevance for water quality.

The existing parametric values set for these parameters (in annex I to the directive) are generally based on the guidelines for drinking water of the World Health Organization (WHO). These guidelines are regularly updated and were last amended in early 2017.

The directive requires Member States to regularly monitor the quality of drinking water, while at the same time allowing them to set additional requirements leading to higher quality standards. Minimum requirements are set for the monitoring programmes. In specific cases, Member States may grant **derogations** for some parameters for a limited time.

The directive is applicable to all water intended for human consumption, with the exception of mineral waters and waters that are medicinal products. It applies to all distribution systems serving more than 50 people. The directive also requires regular provision of information to consumers. In addition, drinking water quality has to be reported to the European Commission every three years.

According to the [REFIT evaluation](#), published in December 2016, the directive is being implemented well. The most recent [synthesis report](#) on its implementation, from October 2016, shows that the overall compliance rate for microbiological and chemical parameters in the EU is over 99%. Nonetheless, the REFIT evaluation pointed out that the quality standards had not been revised since 1998 and did not fully reflect scientific progress. Furthermore, it found that the method of monitoring does not ensure systematic risk assessment, and that the information on water quality provided to consumers was insufficient. It also criticised divergent national approval systems for materials in contact with drinking water, preventing mutual recognition of these materials across the internal market.

Parliament's starting position

In its [resolution](#) of July 2012 on the implementation of EU water legislation, the Parliament pointed out that reducing water consumption should be a priority, underlined the importance of eco-design and water-saving devices, and called for water metering to be made binding across all sectors and users in all EU countries. Parliament urged the Commission to step up the battle against the

increasing release of pollutants, such as antibiotic and drug residues in water, and called for introducing good water systems in buildings and public areas to help reduce the need for bottled water.

In its [resolution](#) of 8 September 2015 on the follow-up to the European Citizens' Initiative, Right2Water, the Parliament recognised that water is not a commodity but a public good that is vital to human life and dignity, and called on the Commission and the Member States to ensure a comprehensive water supply characterised by affordable prices, high quality and fair working conditions, and subject to democratic controls. Parliament rejected water cut-offs due to socioeconomic factors in low-income households, and called upon Member States to ensure non-discrimination in access to water services, including of marginalised user groups. Parliament also called on the Commission to make the renewal of ageing drinking water networks a priority in the Investment Plan for Europe.

Preparation of the proposal

In view of the revision of the Drinking Water Directive, a [REFIT ex-post evaluation](#) was conducted in 2015. The evaluation concluded that the current rules were generally effective and ensured a high level of compliance, but also found problem areas that needed to be tackled (see section on 'Existing situation' above).

In December 2013 the first successful European Citizens' Initiative, [Right2Water](#), called on the Commission to ensure access to drinking water for all EU inhabitants. The Commission decided to address this topic together with the weaknesses of the current legislation identified in the REFIT evaluation. In response to the European Citizens' Initiative, the Commission also ran an [EU-wide public consultation](#) on the quality of drinking water in 2014. Several stakeholder dialogues, targeted consultations and conferences were held between 2014 and 2016, and the stakeholders' feedback was regularly discussed in the EU's [Drinking Water Expert Group](#). A cooperation project with the WHO Regional Office for Europe was launched in December 2015, to integrate the most recent scientific knowledge into the revision of the parameters.

A 2017 [study](#) supporting the revision of the EU Drinking Water Directive concluded that the directive had been effective: the study mentions the reduction of lead in drinking water as an example of significant improvement. However, it also highlights a number of weaknesses, including: water quality in small water supply zones is poorer than in large supply zones; national approval systems for materials and substances in contact with drinking water have not been harmonised at EU level; and consumer satisfaction with the information provided on water quality is low. The study also points out that sampling water at the tap is not always possible, due to national legislation that prohibits water suppliers from entering private premises. An external [study on materials in contact with drinking water](#), completed in 2017, concluded that the principle of mutual recognition is not working between the Member States as far as these materials are concerned, creating technical barriers to trade within the EU.

The [impact assessment](#) carried out by the Commission considers a number of options to achieve five objectives: 1) updating the list of parameters; 2) simplifying the approach; 3) removing obstacles to the internal market; 4) ensuring transparency and information to the consumer; and 5) improving access to drinking water.

The European Parliamentary Research Service published an [implementation appraisal](#) on the Drinking Water Directive in July 2017 and an [initial appraisal of a European Commission impact assessment](#) on the revision of the Drinking Water Directive in March 2018. The initial appraisal concludes that although the Commission's impact analysis builds on solid internal and external expertise, the range of options is limited (one or two per objective) and leads to a rather predictable selection of preferred options.

The changes the proposal would bring

On 1 February 2018, the Commission [proposed a recast](#) of the Drinking Water Directive. The aim of the proposal is to improve the quality of drinking water and provide citizens with greater access to water and information about it. The main elements of the proposal include:

- updating existing safety standards in line with the latest scientific knowledge and recommendations of the WHO; adding new and emerging substances (such as legionella and chlorate) to the list of criteria determining water safety;
- introducing a risk-based safety assessment to the monitoring of water, enabling authorities to concentrate resources on potential risks, to avoid analyses of non-occurring parameters and identify possible risks to water sources at distribution level;
- improving rules on transparency and consumers' access to up-to-date information regarding the quality of drinking water in their living areas, thus improving consumers' confidence and encouraging households and restaurants to use tap water instead of bottled water;²
- seeking, through internal market legislation, to harmonise standards for products in contact with drinking water (by means of setting standards under the Construction Products Regulation);
- requiring Member States to improve access for all people, especially for vulnerable and marginalised groups, which currently have difficult access to drinking water; this includes installing equipment for access to drinking water in public spaces and encouraging administrations and public buildings to provide access to drinking water.

The updated list of standards (parameters) includes **18 new or revised parameters**: naturally occurring but harmful substances such as uranium; emerging contaminants such as perfluorinated compounds;³ disinfection by-products or distribution impurities such as chlorate, and endocrine disrupting compounds such as bisphenol A.

- Concerning **microbiological** parameters, upon the WHO's recommendation, new parameters have been added to the list, namely *Clostridium Perfringens* spores, coliform bacteria and somatic coliphages. Turbidity has been moved here from the former 'Indicator Parameters'.
- Upon the WHO's recommendation or on the basis of the precautionary principle, several new parameters have been added to the **chemical** parameters, including bisphenol A, chlorate, chlorite, beta-estradiol, haloacetic acids and uranium.
- Most of the former **indicator** parameters have been moved to annex IV, which concerns information to consumers. The rationale for this is that indicator parameters do not provide health-related information, but rather, information of interest to consumers (such as taste, colour and hardness).

Microplastics are addressed in the proposal as an issue of emerging concern and, when considered relevant on the basis of a hazard assessment, would be regularly monitored in water bodies used for the abstraction of drinking water. Parameters concerning **endocrine disrupting compounds (EDCs)**⁴ are included in the proposal on the basis of the precautionary principle.

National reporting obligations are to be reduced and simplified; this, according to the Commission, would reduce the administrative burden for authorities.

To implement a risk-based approach to monitoring, Member States would be required to develop specific national risk assessment plans. Water suppliers would be able to better target their monitoring activities and treatment measures once they have demonstrated that the water source is not contaminated by certain substances. This would lower their costs by reducing unnecessary treatment and monitoring for non-present substances. Large suppliers would be expected to implement the risk-based approach within three years and small suppliers within six years.

The existing Article 9 on **derogations** would be deleted. The article was originally introduced to allow Member States to comply with the newly set values in 1998. In the new proposal, where a

Member State exceeds a parametric value, it would still have to take remedial action, but there would no longer be a need to formally adopt, via a decision, the parametric value that is in exceedance of the one set in the directive.

Concerning materials that come into contact with drinking water, the proposal sets rules on permitted amounts of certain substances in water, giving guidance for the production of hygienically safe pipes and taps. For example, it includes new microbiological parameters to avoid biofilms and microbiological growth within the distribution system, strengthens the requirements for lead⁵ and chromium to prevent undesired migration from metals into tap water, and imposes limits for acrylamide, bisphenol A and per- and polyfluoroalkyl substances. According to the Commission, technical standards that are currently being developed under the [Construction Products Regulation](#) should significantly reduce the need for multiple national testing procedures, through the development of EU-wide standards.

A new Article 13 on **access to water** would be added. First, it sets an obligation for Member States to improve access to and promote use of drinking water via a number of measures, such as identifying people without access to drinking water and informing them about connection possibilities, as well as setting up and maintaining equipment enabling free access to tap water in public spaces. Second, it includes an obligation for Member States to take all measures necessary to ensure access to drinking water for vulnerable and marginalised groups.

According to the Commission, better access to and quality of drinking water, as well as increased transparency requirements, entail additional but moderate costs: the costs and the impacts of the proposal are estimated at between €5.9 billion and €7.3 billion, mainly to be borne by water operators. The Commission predicts that consumers would see a very marginal increase in their household costs; these would be offset by the health benefits consumers will be getting and the money they will be saving through lower consumption of bottled water.

Advisory committees

The European Committee of the Regions [adopted](#) its opinion in May 2018 (rapporteur: Mark Weinmeister, EPP, Germany). The Committee calls for a single EU-wide assessment scheme for materials and products that come into contact with drinking water and advocates close monitoring of microplastics. The Committee stresses that the EU should reject any liberalisation of water distribution and competition on water networks, as clean and healthy drinking water is an essential public service.

The European Economic and Social Committee (EESC) adopted its [opinion](#) in July 2018 (rapporteur: Gerardo Larghi, Workers – Group II, Italy). The committee regrets that the proposal stops short of explicitly recognising the universal right of access to safe drinking water and sanitation, as called for by the Right2Water ECI. The EESC is in favour of introducing measures requiring Member States to facilitate access to drinking water for vulnerable groups, but points out that the detailed implementation of the measures should be made in agreement with the Member States.

National parliaments

Four national parliaments submitted [reasoned opinions](#) on the grounds of subsidiarity: the Austrian Federal Council, the Czech Chamber of Deputies, the Irish Houses of the Oireachtas and the UK House of Commons.

The [Austrian Federal Council](#) argues that in certain parts of the proposed directive it is not possible to identify the added value of a legal act, given that the EU Water Framework Directive already contains provisions relating to the monitoring of water quality; that the duties related to informing the public result in an increased administrative burden, and that according to the Austrian system of law, provisions for the protection of water quality are in the public interest and, as such, do not constitute grounds for subjective rights.

The [Irish Houses of the Oireachtas](#) believe that the proposal unnecessarily limits the provision for national decision-making. Consequently, the scope for Member States to choose how to implement the proposal's objectives at national level and in accordance with established national systems, is constrained. The Houses do not see the necessity for diverging from the WHO's recommendations in relation to the parameters for monitoring the quality of water for human consumption. The Houses of the Oireachtas are further of the opinion that this proposal does not adequately take into account local and regional considerations and has the potential to have far-reaching implications on well-established national arrangements in place in Ireland.

The [Czech Chamber of Deputies](#) believes that the quality of water, its monitoring, matters related to ensuring water availability for marginal societal groups, and the wide availability of water for free in public places are all objectives that can be achieved satisfactorily at the central, regional and local levels.

The [UK House of Commons](#) observes that Article 13(1)(b) in particular – requiring Member States to set up outdoor and indoor water fountains in public spaces – does not leave much room for discretion. It does not agree therefore that Article 13 strikes the right balance between action that might be deemed necessary at EU level and action best left to Member States.

The [German Bundesrat](#) submitted comments for political dialogue. The Bundesrat is concerned that certain provisions of the proposal would make its eventual implementation by the *Länder* more difficult or, in part, even impossible.

Stakeholders' views⁶

[Aqua Publica Europea](#), the European association of public water operators, welcomes the proposal, but warns that it needs to take better account of the complex realities of the water sector in terms of governance, technical limitations and social implications. It also points out that the requirement to monitor the occurrence of certain substances, such as microplastics and endocrine disruptors, will create considerable technical and financial challenges, among other things because of the lack of standardised methods to measure them. [EurEau](#), representing Europe's drinking water and waste water service operators, criticises the proposed new stringent limits for PFAS (per- and polyfluoroalkyl substances), saying that limits should first be set for them in rivers, lakes and aquifers, to tackle the problem at source, instead of setting limits only at the tap. Setting limits at the tap would, according to EurEau, favour end-of-pipe treatment, such as reverse osmosis, which would raise water bills for consumers. For EurEau, such chemicals should be prevented from entering the water cycle in the first place; industrial emissions of PFAS should be reduced or banned and the costs should be borne by the polluters.

[EPSU](#), the European Public Service Union, says that while the proposal is a step forward, it has missed the opportunity to recognise the human right to water and sanitation, demanded by the first-ever European Citizens' Initiative. [Eurofedop](#), the European Federation of Employees in Public Services, underlines that water is a common good and that projects aiming at the privatisation of water management should be avoided.

The organisers of the [Right2Water initiative](#) regard the proposal as a positive step and welcome the recognition of the need to guarantee the supply of safe drinking water for vulnerable and marginalised communities, such as asylum-seekers and refugees, Roma, travellers as well as low-income citizens. They ask the Commission to push for legislation that bans disconnection from the water network, as this is a daily problem for hundreds of thousands of people in some countries. The [European Water Movement](#), a non-governmental organisation, says that the proposal is disappointing and does not meet any of the demands made in the European Citizens' Initiative. For them, given that in recent years thousands of families in Europe have had their water cut off for not being able to pay the bills, guaranteeing access is not enough.

Legislative process

In the European Parliament, the Committee on Environment, Public Health and Food Safety (ENVI) is responsible for the file, with Michel Dantin (EPP, France) appointed rapporteur. The ENVI committee held an exchange of views on the draft report on 7 June 2018.

The committee adopted its [report](#) on 10 September 2018 by 30 votes in favour, 13 against, and 19 abstentions. The committee agrees that the directive should promote universal access to clean water for all in the Union. The requirements set out in the directive should, however, reflect the national situation and conditions of the water suppliers in the Member States. According to the committee report, Member States should still be authorised to grant derogations from the directive. The committee, in general, maintained most of the parameters set by the Commission, which are in some cases stricter than those recommended by the World Health Organization (WHO). Instead of setting values, on the basis of the precautionary principle, for new parameters such as endocrine disruptors and microplastics, the committee proposes placing them on a 'watch list' until there are clearer scientific data.

According to the committee, Member States should encourage provision of tap water in restaurants either free of charge, as proposed by the Commission, or for a low service fee. The report favours establishing minimum European hygiene standards for all materials in contact with drinking water. By the end of 2022, Member States would be required to adopt national targets to reduce water leakage levels of water suppliers.

A vote on the ENVI committee's report and on opening interinstitutional negotiations is expected during the October II plenary session.

The Council of the EU has been examining the proposal in its Working Party on the Environment. During discussions at technical level, two issues were identified as requiring political guidance from the Council. A [policy debate](#) on the subject was held at the Environment Council meeting on 25 June 2018. The discussion was structured around the two controversial aspects: the harmonisation of materials in contact with drinking water (Should harmonisation be conducted under internal market legislation, or should Member States retain discretion to set stricter requirements under the environmental legislation?); and access to water (Is the Drinking Water Directive the most adequate instrument for regulating the obligation to ensure access to water? Should a possible provision on access list measures to implement it, or should Member States be granted further flexibility to choose the most appropriate measures?).

On the harmonisation of standards for materials in contact with water, most ministers' interventions pointed out that harmonising standards under the Construction Products Regulation was insufficient and that minimum hygiene requirements should be set in the directive. Regarding the right of access to water, ministers welcomed the successful European Citizens' Initiative, Right2Water, which had inspired some of the provisions in the Commission's proposal. They furthermore agreed with the principle of improved access, which respects the principle of subsidiarity and leaves Member States enough flexibility to decide and implement measures that would take into account geographical and cultural circumstances. The policy debate provided guidance for further work on the proposal under the Austrian Presidency.

EP SUPPORTING ANALYSIS

Bourguignon D., [The precautionary principle: Definitions, applications and governance](#), In-Depth Analysis, EPRS, European Parliament, December 2015.

Kiendl Krišto I., [Drinking Water Directive](#), Implementation Appraisal, EPRS, European Parliament, July 2017.

Kramer E., [Revision of the drinking water directive](#), Initial Appraisal of a European Commission Impact Assessment, EPRS, European Parliament, March 2018.

Zandstra T., [Water legislation: Cost of Non-Europe Report](#), EPRS, European Parliament, May 2015.

OTHER SOURCES

[Quality of water intended for human consumption. Recast](#), European Parliament, Legislative Observatory (OEIL).

ENDNOTES

- ¹ These two parameters were selected because they indicate the presence of human and animal excreta in water. Consumption of water contaminated by excreta is considered the most significant and frequent health risk through drinking water exposure.
- ² According to the Commission, reducing consumption of bottled water can help households in Europe to [save more than €600 million](#) per year, while at the same time reducing plastic waste.
- ³ Perfluorinated compounds are persistent, bioaccumulative and toxic substances found in groundwater primarily as a consequence of contamination of the soil by fire-fighting foams, which break down to these and some other perfluorinated substances. However, they can also originate from industrial pollution or from products with water- or grease-repellent material, such as Teflon-coated saucepans, greaseproof paper or waterproof and dirt-repellent outdoor sports equipment.
- ⁴ 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 for the protection of aquatic life. According to the Commission proposal (pp. 17-19), 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.
- ⁵ The WHO remarks that lead is one of few substances known to cause direct health impacts through drinking water, and that concentrations should therefore be as low as reasonably practical. To that end, the Commission 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 would be maintained.
- ⁶ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

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