

Brussels, 24 February 2020
(OR. en, fr)

Interinstitutional File:
2017/0332(COD)

6060/20
ADD 1 REV 1

ENV 78
SAN 48
CONSOM 25
CODEC 109

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	5813/20
No. Cion doc.:	5846/18 - COM(2017) 753 final + ADD 1
Subject:	Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) - Political agreement - Statements

**Statement by Cyprus, Czechia, Denmark, France, Germany, Hungary,
Malta, the Netherlands and Poland**
- Recital 40

The abovementioned Member States support the adoption of the Drinking Water Directive, which will not only ensure high standards of safety of drinking water for our citizens, but will also indirectly improve the smooth functioning of the internal market.

However, we consider it entirely inappropriate to include general wording about the Commission taking action regarding access to justice in Member States in the statement of reasons of a legal act concerned with drinking water. This does not alter the current legal status on access to justice nor does it further empower the Commission to pursue legal action on these matters.

Compliance with the Aarhus Convention, to which the Member States are parties in their own right, is a matter that we take seriously. Member States' compliance with the Aarhus Convention can best be addressed, in accordance with the principle of subsidiarity, at Member State level. The real challenge to be addressed, however, remains the Union's own compliance with the Aarhus Convention, as referred to in Council Decision 2018/881 and in the findings of the Aarhus Convention Compliance Committee in case ACCC/C/2008/32. Notwithstanding the completion of the study requested by the Council, and the Commission's statement in its Communication on the European Green Deal of 11 December 2019 that it would "consider revising the Aarhus Regulation" (Regulation 1367/2006), we note that no such proposal has been mentioned in the Commission's work programme for 2020.

Although we are prepared to support the adoption of this Directive in view of the wider benefits it will bring, we will nevertheless be vigilant in ensuring that such language on access to justice in Member States will not be included in future legislative acts in the environment field.

Statement by Luxembourg

In the spirit of compromise, Luxembourg is able to accept the agreement on the proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast), which also provides a positive response to the Right2Water initiative.

However, Luxembourg regrets that the solution retained for pesticide metabolites is not more ambitious and the fact that, in the absence of a detailed impact assessment, the consequences of applying the provisions on contact materials did not undergo sufficient analysis with regard to the costs and expenses to be borne by the stakeholders concerned.

Statement by the Netherlands
- Articles 1 and 16

The Netherlands strongly supports the importance of access to drinking water and welcomed the Right2Water initiative. The Netherlands has a strong practice and legal framework regarding access to and the supply of good quality drinking water at the national level. However, the Netherlands remains of the opinion that the Drinking Water Directive, with a focus on drinking water quality, is not the appropriate instrument to address the issue of improving access to drinking water in the EU. The Netherlands questions the widening of the scope of this Directive in a way that risks treading on the responsibility of Member States, especially the mandatory and specific nature of certain measures. The Netherlands supports the adoption of this Directive in view of the clear and wider benefits it will bring to the quality of drinking water and because we believe our drinking water system to be in line with the obligations of Article 16, but we stress that how the issue of access to drinking water is to be addressed, is the responsibility of Member States.

Statement by the Commission on delegated acts

The Commission regrets the decision of the co-legislators to limit its empowerment to modify the annexes of the revised Drinking Water Directive to Annex III, whereas the Commission had sought an empowerment to modify Annexes I to IV in its original proposal.

The Commission specifically regrets that the co-legislators did not agree on an empowerment to amend Annex II, which is particularly necessary in light of the need to update the monitoring requirements set out in Annex II to scientific and technical progress.

Statement by the Commission on the procedure of adopting implementing acts

The Commission underlines that it is contrary to the letter and to the spirit of Regulation (EU) No 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke point (b) of the second subparagraph of Article 5(4), without proper justification. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5(4), it cannot be simply seen as a “discretionary power” of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.
