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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 614/2023
N° Cion doc.:	ST 14223/22 + ADD 1
Subject:	Urban Wastewater Treatment Directive: WPE on 27 January 2023 - comments from delegations

Following the call for comments on the above set out with WK 614/2023, delegations will find attached comments from EE, IE, ES, LT, NL, AT and FI.

ESTONIA

Questions on the Proposal for a Directive concerning urban wastewater treatment (UWWTD)

Estonia would like to thank for the opportunity to provide questions on the UWWTD proposal.

1. On the basis of which reference wastewater plants has the objective set to achieve 85% nitrogen removal or 6 mg/l? Has there taken into account the loss of denitrification efficiency with decreasing temperature?
2. Is the achievement of 85% or 6 mg/l to be calculated on the basis of averages over a year or other period, or must these targets be achieved at all times?
3. Why has footnote 3 in Table 2 of Annex I to the Directive, which took account of the reduction in nitrogen removal efficiency at cold temperatures, been deleted? The original footnote: *Alternatively, the daily average must not exceed 20 mg/1 N. This requirement refers to a water temperature of 12° C or more during the operation of the biological reactor of the wastewater treatment plant. 2. As a substitute for the condition concerning the temperature, it is possible to apply a limited time of operation, which takes into account the regional climatic conditions. This alternative applies if it can be shown that paragraph 1 of Annex I.D is fulfilled.*
4. What does the natural retention (Note 1) mean in the nitrogen removal context and how it should be taken into account in the nitrogen removal calculations?
5. According to Article 18(3) of the draft UWWTD, risks must be identified and reviewed every 5 years. However, under the Drinking Water Directive, risks must be assessed and managed every 6 years. Also the River Basin Management Plans according to the WFD are reviewed after every 6 years. Would it be possible to use 6 years or risk management reviewing instead of 5 years cycle?
6. The recast directive provides for the costs of setting up quaternary treatment facilities for the elimination of micro-pollutants to be borne by manufacturers of pharmaceutical and cosmetic products placed on the market through extended producer responsibility. The creation of a Producer Responsibility Organisation (PRO) is envisaged as the only practical solution. Can a Member State implement the principle of producer responsibility without imposing an obligation to set up a producer responsibility organisation?
7. In order to meet the aim of the recast directive, could a Member State finance investment in the construction of a quaternary treatment facility by means of a national fund financed, for example, by a tax on pharmaceuticals and cosmetics which release micro-pollutants into the environment?
8. Can a Member State partially implement extended producer responsibility to cover the costs necessary for the removal of micro-pollutants, i.e. cover the necessary costs from other sources of funding?
9. Can the cost of the operation of quaternary treatment facilities be recovered from the turnover of the water service provided to the public?
10. Large investments in wastewater treatment technology to remove micro-pollutants must be made as soon as the obligation arises. What solution does the Commission see to the asymmetry of cash flows between the investment needed to build up quaternary treatment and the implementation of producer responsibility?
11. How should the costs of extended producer responsibility be allocated to producers in proportion to quantities and also to hazardousness in the wastewater (Article 9(4)(c))?

12. If the concentrations of micro-pollutants in the wastewater are very low, achieving the Directive's level of attenuation will be proportionately costly and have little environmental impact. Is the removal rate for micro-pollutants to be achieved irrespective of the initial concentration of micro-pollutants in the wastewater?
 13. What methodology is used to calculate the removal percentage of micropollutants at the laboratory limit of determination? If the concentration is below the limit of determination, can it be equated to zero?
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IRELAND

Comments on Articles 7, 8, 9, 13, 18 & 21 of the Proposal for an Urban Wastewater Treatment Directive

Introduction

In response to the request for comments and feedback on Articles 7, 8, 9, 13, 18 and 21 of the Proposal for a Directive of the European Parliament and of the Council concerning urban wastewater treatment (recast). **Ireland is maintaining its scrutiny reservation on the entire file.** In addition, we are awaiting comments from our Oireachtas (Parliament) on the file which will form future inputs on the recast Directive.

Ireland has considered the proposed text and offers the following initial comments and drafting proposals on these Articles.

Ireland looks forward to actively engaging in the negotiation process and will be happy to help develop text for the recast Directive in cooperation with the Commission and Member States.

Article 7 Tertiary treatment

Issues Summary
Seeking clarification on the definition of Tertiary treatment – Article 2(12) compared to Table 2 Annex 1 and suggesting revision to definition in Article 2
Inclusion of the risk based approach in relation to the decision of use of tertiary treatment in agglomeration over 100 000 pe which discharge to coastal areas, to ensure investment results in tangible and measurable environmental benefits
Suggest reporting timelines should align with RBMP timelines and consolidated where possible
Ireland maintains its previously expressed concerns in relation to details to be settled in Delegated Acts. Ireland appreciates the value of having delegated act mechanisms and is open to dialog on setting our principles in respect of the delegated acts with a view to assuaging our concerns in this regards.
Concern in relation to new limits for N removal, as substantial investment required for diminishing environmental returns in respect of urban wastewater sources of N.
Art 7 (5): This approach sets hard rules and does not recognise the RBA. Text inserted earlier referencing ' <i>where there is an environmental need to be addressed</i> ' reflects the application of the RBA.

Article 2 (12) Definition of Tertiary Treatment

'tertiary treatment' means treatment of urban wastewater by a process which removes nitrogen and / or phosphorus from the urban wastewaters *depending on receiving water conditions*;

Article 7 Tertiary treatment

1. By 31 December 2030, Member States shall ensure that discharges from 50 % of urban wastewater treatment plants treating a load of 100 000 p.e. and above and not applying tertiary treatment on [OP please insert the date = the date of entry into force of this Directive] are subject to tertiary treatment in accordance with paragraph 4 *where there is an environmental need to be addressed*.

By 31 December 2035, Member States shall ensure that all urban wastewater treatment plants treating a load of 100 000 p.e. and above are subject to tertiary treatment in accordance with paragraph 4 *where there is an environmental need to be addressed*.

2. By 31 December 2025, Member States shall establish a list of areas on their territory that are sensitive to eutrophication and update that list every five years starting on 31 December 2030.

The list referred to in the first subparagraph shall include the areas identified in Annex II.

The requirement set out in the first subparagraph shall not apply where a Member State implements tertiary treatment in accordance with paragraph 4 in its entire territory.

3 By 31 December 2035, Member States shall ensure that for 50 % of the agglomerations of between 10 000 p.e. and 100 000 p.e. that are discharging into areas included in the list referred to in paragraph 2 and not applying tertiary treatment on [OP please insert the date = the date of entry into force of this Directive] urban wastewater entering collecting systems is subject to tertiary treatment in accordance with paragraph 4 before discharge into those areas *where there is an environmental need to be addressed*.

By 31 December 2040, Member States shall ensure that urban wastewater entering collecting systems is subject to tertiary treatment in accordance with paragraph 4 before discharge into areas included in a list referred to in paragraph 2 with regard to all agglomerations of between 10 000 p.e. and 100 000 p.e *where there is an environmental need to be addressed*.

4. Samples taken in accordance with Article 21 and Part D of Annex I of this Directive shall comply with the parametric values set out in table 2 of Part B of Annex I. The maximum permitted number of samples which fail to conform to the parametric values of table 2 of Part B of Annex I is set out in table 4 of Part D of Annex I.

The Commission is empowered to adopt delegated acts in accordance with the procedure referred to in Article 27 to amend Parts B and D of Annex I in order to adapt the requirements and methods referred to in the second subparagraph to technological and scientific progress.

5. By way of derogation from paragraphs 3 and 4, Member States may decide that an individual urban wastewater treatment plant situated in an area included in a list referred to in paragraph 2 shall not be subject to the requirements set out in paragraphs 3 and 4

where it can be shown that the minimum percentage of reduction of the overall load entering all urban waste water treatment plants in that area is

(a) 82,5 % for total phosphorus and 80 % for total nitrogen by 31 December 2035;

(b) 90 % for total phosphorus and 85 % for total nitrogen by 31 December 2040.

6. Discharges from urban wastewater treatment plants 10 000 p.e. and above into a catchment areas of an area sensitive to eutrophication included in a list referred to in paragraph 2 shall also be subject to paragraphs 3, 4 and 5.

7. Member States shall ensure that discharges from urban wastewater treatment plants which are situated in an area included in a list referred to in paragraph 2 following one of the regular updates of the list required by that paragraph fulfil the requirements laid down in paragraphs 3 and 4 within seven years of the inclusion in that list

Annex 1B. DISCHARGE FROM URBAN WASTEWATER TREATMENT PLANTS TO RECEIVING WATERS

1. Wastewater treatment plants shall be designed or modified so that representative samples of the incoming wastewater and of treated effluent can be obtained before discharge to receiving waters.

2. Discharges from urban wastewater treatment plants subject to treatment in accordance with Articles 6, 7 and 8 shall meet the requirements shown in Table 1.

3. Discharges from urban wastewater treatment plants referred to in paragraph 1 and 3 of Article 7 and in Article 8 in accordance with those Articles shall, in addition to the requirements referred to in point 2, meet the requirements shown in Table 2 of this Annex.

4. Discharges from urban wastewater treatment referred to in Article 8(1) and included in the list referred to in Article 8(2) shall, in addition to the requirements referred to in points 2 and 3, meet the requirements set out in Table 3.

5. Authorisations for discharges from urban wastewater treatment plants using plastic biomedica shall include an obligation to permanently monitor and prevent all unintentional biomedica release in the environment.

6. More stringent requirements than those set out in Tables 1, 2 and 3 shall be applied where necessary to ensure that the receiving waters fulfil the requirements laid down in Directives 2000/60/EC, 2008/56/EC, 2008/105/EC and 2006/7/EC.

7. The points of discharge of urban wastewater shall be chosen, as far as possible, so as to minimize the effects on receiving waters.

Annex 1D Table 2

Parameters	Concentration	Minimum percentage of reduction (see note 1)	Reference method of measurement
Total phosphorus	0,5 mg/L	90	Molecular absorption spectrophotometry

Total
nitrogen

6 mg/L

85

Molecular absorption
spectrophotometry

Note 1: Natural nitrogen retention shall not be taken into account in the calculation of the minimum percentage reduction.

ANNEX 2

Areas sensitive to Eutrophication

1. Areas located in the catchments of the Baltic Sea, the Black Sea, parts of the North Sea identified as sensitive to eutrophication under Directive 2008/56/EC and parts of the Adriatic Sea identified as sensitive to eutrophication under Directive 2008/56/EC;
2. Natural freshwater lakes, other freshwater bodies, estuaries and coastal waters which are found to be eutrophic or which in the near future may become eutrophic if protective action is not taken.

The following elements shall be taken into account when considering which nutrient should be reduced by further treatment:

- (a) lakes and streams reaching lakes/reservoirs/closed bays which are found to have a poor water exchange, whereby accumulation may take place. In these areas, the removal of phosphorus should be included unless it can be demonstrated that the removal will have no effect on the level of eutrophication. Where discharges from large agglomerations are made, the removal of nitrogen may also be considered;
- (b) estuaries, bays and other coastal waters which are found to have a poor water exchange, or which receive large quantities of nutrients. Discharges from small agglomerations are usually of minor importance in those areas, but for large agglomerations, the removal of phosphorus and/or nitrogen should be included unless it can be demonstrated that the removal will have no effect on the level of eutrophication;
3. Surface freshwaters intended for the abstraction of drinking water which could contain more than the concentration of nitrate laid down under the relevant provisions of Directive (EU) 2020/2184 if protective action is not taken;
4. Areas where further treatment than that prescribed in Article 7 of this Directive is necessary to comply with other Union acts in the environmental field, including in particular water bodies covered by Directive 2000/60/EC which are at risk of not maintaining or achieving good ecological status or potential.
5. Any other areas found by the Member States to be sensitive to eutrophication.

Article 8 Quaternary treatment

Issues Summary

Ireland suggests that further research is required to assess the potential impact to the environment and human health from discharging micro pollutants into coastal areas. IE is undertaking evidence based research in the form of monitoring and modelling at an agglomeration with a p.e. over 100 000 which discharges into a coastal area.

Technologies for quaternary treatment include activated carbon and ozonation. The feasibility of powered activated carbon is challenging, as it produces increased sludge. IE currently recovers much of the urban sludge's produced by treatment as a valuable alternative to chemical fertiliser

Article 8(5): Compliance is based on the average percentage reduction across all the pollutants being at least 80%. What if the influent concentration is so small that it is technically infeasible to demonstrate 80% reduction?

Drafting Suggestions (strikethrough suggested deleted text, new text in red)

*1. By 31 December 2030, Member States shall ensure that 50 % of discharges from urban wastewater treatment plants treating a load of 100 000 p.e. and above are subject quaternary treatment in accordance with paragraph 5, **where there is an environmental need to be addressed.***

*By 31 December 2035, Member States shall ensure that all urban wastewater treatment plants treating a load of 100 000 p.e. and above are subject to quaternary treatment in accordance with paragraph 5, **where there is an environmental need to be addressed.***

*2. On 31 December 2030, Member States shall **undertake a risk assessment to have** established a list a list of areas on their national territory where the concentration or the accumulation of micro-pollutants represents a risk for human health or the environment. Member States shall review that list every five years thereafter and update it if necessary.*

The list referred to in the first subparagraph shall include the following areas, unless the absence of risk for human health or the environment in those areas can be demonstrated based on a risk assessment:

(a) water bodies used for abstraction of water intended for human consumption as defined in Article 2, point (1), of Directive (EU) 2020/2184;

(b) bathing water falling within the scope of Directive 2006/7/EC;

(c) lakes as defined in Article 2, point (5), of Directive 2000/60/EC;

(d) rivers as defined in Article 2, point (4), of Directive 2000/60/EC or other water streams where the dilution ratio is below 10;

(e) areas where aquaculture activities, as defined in Article 4, point (25), of Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁷³, take place;

(f) areas where additional treatment is necessary to meet the requirements set out in Directives 2000/60/EC and 2008/105/EC.

The risk assessment referred to in the second subparagraph shall be communicated to the Commission on request.

3. The Commission is empowered to adopt implementing acts establishing the format of the risk assessment referred to in paragraph 2, second subparagraph, and the method to be used for that risk assessment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

4. By 31 December 2035, Member States shall ensure that for 50 % of the agglomerations of between 10 000 p.e and 100 000 p.e., urban wastewater entering collecting systems is subject to quaternary treatment in accordance with paragraph 5 before discharge into areas included in a list referred to in paragraph 2 *where there is an environmental need to be addressed*.

By 31 December 2040, Member States shall ensure that urban wastewater entering collecting systems is subject to quaternary treatment in accordance with paragraph 5 before discharge into areas included in a list referred to in paragraph 2 with regard to all agglomerations of between 10 000 p.e and 100 000 p.e., *where there is an environmental need to be addressed*.

5. Samples taken in accordance with Article 21 and Part D of Annex I of this Directive shall comply with the parametric values set out in table 3 of Part B of Annex I. The maximum permitted number of samples which fail to conform to the parametric values of table 3 of Part B of Annex I is set out in table 4 of Part D of Annex I.

The Commission is empowered to adopt delegated acts in accordance with the procedure referred to in Article 27 to amend Parts B and D of Annex I in order to adapt the requirements and methods referred to in the second subparagraph to technological and scientific progress.

6. By 31 December 2030, the Commission shall adopt implementing acts to establish the monitoring and sampling methods to be used by the Member States to determine the presence and quantities in urban wastewater of the indicators set out in table 3 of Part B of Annex I. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Annex 1 Table 3:

Table 3: Requirements for quaternary treatment of discharges from urban wastewater treatment plants referred to in Article 8(1) and (3).

Indicators	Minimum percentage of removal
Substances that can pollute water even at low concentrations (see Note 1)	80 % (see Note 2)

Note 1: The concentration of the organic substances referred to in points (a) and (b) shall be measured.

Article 9 Extended producer responsibility

Issues Summary
IE are seeking clarity on how this scheme would operate? The timelines to implement this are very challenging. In relation to Article 9(2): 2 tonnes per year on the market is hugely impacted by the size of the market. For example, the market sizes for Ireland and Germany differ hugely.
Drafting Suggestions (strikethrough suggested deleted text, new text in red)
<i>1. Member States shall take measures to ensure that producers who place any of the products listed in Annex III on the market have extended producer responsibility.</i> <i>Such measures shall ensure that those producers cover:</i> <i>(a) the full costs for complying with the requirements set out in Article 8, including the costs for the quaternary treatment of urban wastewater to remove micro-pollutants resulting from the products and their residues they place on the market, for the monitoring of micro-pollutants referred to in Article 21(1), point (a); and</i> <i>(b) the costs for gathering and verifying data on products placed on the market; and</i> <i>(c) other costs required to exercise their extended producer responsibility.</i> <i>2. Member States shall exonerate producers from their extended producer responsibility under paragraph 1 where the producers can demonstrate any of the following:</i> <i>(a) the quantity of the product they place on the market is below 2 tonnes per year;</i> <i>(b) the products they place on the market do not generate micro-pollutants in wastewaters at the end of their life.</i> <i>3. The Commission is empowered to adopt implementing acts to establish detailed criteria on the uniform application of the condition laid down in paragraph 2, point (b) to specific categories of products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).</i> <i>4. Member States shall ensure that producers referred to in paragraph 1 exercise their extended producer responsibility collectively by adhering to a producer responsibility organisation.</i> <i>Member States shall ensure that:</i> <i>(a) the producers referred to in paragraph 1 are required to once every year provide the producer responsibility organisations with the following:</i> <i>(i) the annual quantities of the products listed in Annex III that they place on the market in the context of their professional activity;</i> <i>(ii) information on the hazardousness of the products referred to in point (i) in the wastewaters at the end of their life;</i> <i>(iii) when relevant, a list of products exonerated in accordance with paragraph 2;</i> <i>(b) the producers referred to in paragraph 1 are required to contribute financially to the producer responsibility organisations in order to cover the costs arising from</i>

their extended producer responsibility; these costs are passed on to the wastewater utility

(c) each producer's contribution, as referred to in point (b), is determined based on the quantities and hazardousness in the wastewaters of the products that are placed on the market;

(d) producer responsibility organisations are subject to annual independent audits of their financial management, including their capacity to cover the costs referred to in paragraph 4, the quality and adequacy of the information collected under point (a) and the adequacy of the contributions collected under point (b)

5. Member States shall ensure that:

(a) the roles and responsibilities of all relevant actors involved, including producers referred to in paragraph 1, producer responsibility organisations, private or public operators of urban wastewater treatment plants and local competent authorities, are clearly defined;

(b) urban wastewater management objectives are established in order to comply with the requirements and deadlines set under Article 8(1), (4) and (5) and any other quantitative or qualitative objectives that are considered relevant for the implementation of the extended producer responsibility;

(c) a reporting system is in place to gather data on the products referred to in paragraph 1 placed on the market of the Member State by the producers and data on the quaternary treatment of wastewater, as well as other data relevant for the purposes of point (b)

ANNEX 3

LIST OF PRODUCTS COVERED BY EXTENDED PRODUCER RESPONSIBILITY

1. Medicinal products for human use falling within the scope of Directive 2001/83/EC of the European Parliament and of the Council¹².

2. Cosmetic products falling within the scope of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products¹³.

Article 13 Local climatic conditions

Issues Summary
Need to define normal climatic conditions, to ensure alignment with EPA licensing approach and terminology of unusual weather conditions. Propose inserting a place holder for definition of ‘normal climatic conditions’
Drafting Suggestions (strikethrough suggested deleted text, new text in red)
<i>Member States shall ensure that the urban wastewater treatment plants built to comply with the requirements set out in Articles 6, 7 and 8 are designed, constructed, operated and maintained to ensure sufficient performance under all normal local climatic conditions. When designing the plants, seasonal variations of the load shall be taken into account.</i>

Article 18 Risk assessment and management

Issues Summary
Propose that the timelines should reflect the RBMP timelines, so 6 yearly review rather than 5 yearly. Suggested text changes below in relation to Article 2
Drafting Suggestions (strikethrough suggested deleted text, new text in red)
<i>1. By [OP please insert the date = the last day of the second year after the date of entry in force of this Directive], Member States shall identify the risks caused by urban wastewater discharges to the environment and human health and at least those related to the following:</i> <i>(a) the quality of a water body used for the abstraction of water intended for human consumption as defined in Article 2, point (1), of Directive (EU) 2020/2184;</i> <i>(b) the quality of bathing water falling within the scope of Directive 2006/7/EC;</i> <i>(c) the good ecological status of a water body as defined in Article 2, point (22), of Directive 2000/60/EC;</i> <i>(d) the quality of a water body where aquaculture activities as defined in Article 4, point (25), of Regulation (EU) No 1380/2013 take place.</i> <i>2. Where risks have been identified in accordance with paragraph 1, Member States shall adopt appropriate measures, through the application of the risk based approach to address them, which shall may include where appropriate the following measures:</i> <i>(a) establishing collecting systems in accordance with Article 3 for agglomerations with a p.e. of less than 1 000;</i> <i>(b) applying secondary treatment in accordance with Article 6 to discharges of urban wastewater from agglomerations with a p.e. of less than 1 000;</i>

- (c) applying tertiary treatment in accordance with Article 7 to discharges of urban wastewater from agglomerations with a p.e. of less than 10 000;
- (d) applying quaternary treatment in accordance with Article 8 to discharges of urban wastewater from agglomerations with a p.e. of less than 10 000;
- (e) establishing integrated urban wastewater management plans in accordance with Article 5 for agglomerations below 10 000 p.e. and adoption of measures referred to in Annex V;
- (f) applying more stringent requirements for the treatment of collected urban wastewaters than the requirements set out in Annex 1, part B.

3. The identification of the risks carried out in accordance with paragraph 1 of this Article shall be reviewed every ~~5~~6 years. A summary of the identified risks accompanied with a description of the measures adopted in accordance with paragraph 2 of this Article shall be included in the national implementation programmes referred to in Article 23 and communicated to the Commission on request.

Article 21 Monitoring

Issues Summary

Art 21 (2) will be technically and financially challenging, we would suggest a targeted approach to monitoring SWOs and urban runoff, using a combination of monitoring and hydraulic models.

Suggested basic nutrient monitoring requirements would increase sampling over 350% in a year in Ireland, estimates of these costs are currently being worked up.

IE are seeking clarity on size of micro plastics to be monitored.

IE are seeking clarity in relation to Article 21 (1)(d) on specifically what will be monitored to comply with the GHG monitoring requirements.

Costing for monitoring micro plastics and urban runoff have not yet been estimated

In relation the 21 (3) need clarification on what the “*the first and second subparagraphs*” in the following text refers to:

The monitoring referred to in the first and second subparagraphs shall be carried out with the following frequencies:

- (a) at least two samples per year, with maximum 6 months between the samples, for agglomerations of 100 000 p.e. and more;
- (b) at least one sample every 2 years for agglomerations of between 10 000 p.e. and 100 000 p.e.

Drafting Suggestions (1-11) (strikethrough suggested deleted text, new text in red)

1. Member States shall ensure that competent authorities monitor:

(a) discharges from urban wastewater treatment plants in order to verify compliance with the requirements of Part B of Annex I. in accordance with the methods for monitoring and evaluation of results laid down in Part D of Annex I, this monitoring shall include loads and concentrations of the parameters listed in Part B of Annex I and may also include where applicable ;

(b) amounts, composition and destination of sludges

(c) the destination of the treated urban wastewater including the share of reused water;

(d) the greenhouse gases produced and the energy used and produced by urban wastewater treatment plants of above 10 000 p.e.

2. For all agglomerations of 10 000 p.e. and above, Member States shall ensure that competent authorities undertake representative monitoring of ~~monitor~~ the concentration and loads of pollutants from storm water overflows and urban runoff discharged into water bodies .

3. For all agglomerations of above 10 000 p.e., Member States shall monitor, at the inlets and outlets of urban wastewater treatment plants, the concentration and loads in the urban wastewater of the following elements:

(a) pollutants listed in:

(i) Annexes VIII and X to Directive 2000/60/EC, the Annex to Directive 2008/105/EC, Annex I to Directive 2006/118/EC and Part B of Annex II to Directive 2006/118/EC;

(ii) the Annex to Decision 2455/2001/EC of the European Parliament and of the Council⁷⁷;

(iii) Annex II to Regulation (EC) No 166/2006 of the European Parliament and of the Council⁷⁸;

(iv) Annexes I and II to Directive 86/278/EEC.

(b) parameters listed in Part B of Annex III to Directive (EU) 2020/2184, where urban wastewater is discharged in a catchment area referred to in Article 8 of that Directive;

(c) the presence of micro-plastics.

For all agglomerations of above 10 000 p.e., Member States shall monitor the presence of micro-plastics in the sludge.

The monitoring referred to in the first and second subparagraphs shall be carried out with the following frequencies:

(a) at least two samples per year, with maximum 6 months between the samples, for agglomerations of 100 000 p.e. and more;

(b) at least one sample every 2 years for agglomerations of between 10 000 p.e. and 100 000 p.e.

The Commission is empowered to adopt implementing acts in accordance with the procedure referred to in Article 28 to ensure a uniform application of this Directive by establishing a methodology for measuring micro-plastics in urban wastewater and sludge.

**Comentarios a la propuesta legislativa de revisión de la
D/91/271 COM (2022) 541 final**

Interinstitutional file: 2022/0345(COD)

Reunión del WPE - 27 January 2022

[VERSIÓN EN CASTELLANO]

23/01/2023

COMENTARIOS GENERALES

España agradece a la Presidencia de Suecia la posibilidad de enviar comentarios respecto de los artículos y Anexos propuestos para su discusión en la reunión.

Los comentarios de España pretenden plantear posibles propuestas de modificación. Si bien España podría estar, en general, de acuerdo con la propuesta, y agradece a la Comisión su ambición ambiental, que comparte, no considera razonables los plazos de implementación, por entenderlos inalcanzables. Los plazos propuestos están desacoplados de los plazos que se prevén para los Ciclos de planificación que establece la Directiva Marco del Agua.

ARTÍCULO 7 – TRATAMIENTO TERCIARIO

España podría estar de acuerdo con eliminar nutrientes en las aglomeraciones de 100.000 he o más, si bien considera necesario retrasar el plazo horizonte de 2035 hasta 2039 para ajustarse a los Ciclos de Planificación. España considera necesario aclarar en la Propuesta, o diferenciar, la diferencia que debería existir entre reúso del agua depurada para riego agrícola, que no requeriría necesariamente tratamiento terciario en favor de la circularidad de los nutrientes (fósforo y nitrógeno), del concepto de vertido de agua residual.

a) Comentarios por epígrafes

- Epígrafe 1: nos parece adecuado mantener que las primeras actualizaciones de infraestructuras se refieren a aquella que, a la entrada en vigor de la Directiva, no tengan un tratamiento terciario y, con ello de, evitar modificar las EDAR que en la actualidad cumplen con dicho tratamiento terciario, facilitando que lleguen a finalizar su vida útil. Se debería aclarar este aspecto en caso de que la COM no lo entienda de esta manera.

- Actualmente, las medidas y actuaciones ya están previstas en los Programas de Medidas aprobados para 2027 (final del tercer ciclo de planificación). No se ha podido prever estos nuevos requisitos, por lo que **se requerirán dos ciclos de planificación para implementar todas las actuaciones necesarias** (el primero 50% para 2033 y el 100% para 2039).
- El artículo sería más coherente si los grupos de depuradoras que deban formar parte del primer 50% (horizonte temporal más cercano), o del siguiente 50% (hasta alcanzar el 100% en el segundo horizonte temporal), fueran identificados por el Estado Miembro a partir de la lista de áreas sensibles a la eutrofización a la que se refiere el epígrafe 2 (la cual identifica, a su vez, aglomeraciones urbanas).
- Esta identificación debería incluir la consideración de diversos factores: el impacto de los vertidos en el medio o la antigüedad y cumplimiento de las plantas de tratamiento respecto de la Directiva vigente.
- En todo caso, se debería permitir que a las EDAR más modernas, que sean conformes con la directiva actual se les ofrezca un plazo extendido antes de forzar su reforma. Ello evitaría que instalaciones recién construidas, o que van a entrar en servicio durante el Tercer Ciclo de Planificación queden inmediatamente obsoletas. No es sostenible, ni conforme al principio de coste-eficacia que estas nuevas instalaciones tengan que reconfigurarse en un plazo muy inferior a su plazo previsto de amortización.
- Por ejemplo, aquellas plantas que tengan menos de 10 años, podrían pasar a un “tercer grupo” que debería cumplir 6 años después (en el Sexto Ciclo de Planificación), es decir, un ciclo de planificación después del segundo grupo propuesto. En consecuencia, los tramos del 50% y del 100% propuestos no incluirían estas plantas de menos de 10 años conformes con la directiva actual, dando tiempo suficiente para su amortización y adecuación a la nueva Directiva más adelante.
- Esta misma aproximación debería considerarse para las actuaciones a realizar para garantizar el cumplimiento del artículo 6, sobre el tratamiento secundario.
- España ya ha manifestado la dificultad de incluir o hacer más intensa la eliminación de nitrógeno, tanto desde el punto de vista de las infraestructuras necesarias, como la exigencia técnica. Además de la temperatura o las necesidades de reactivos adicionales, se requerirán unas instalaciones mayores; sin embargo, en muchas de las plantas actuales, no existe espacio físico para su implantación. No es nada sencillo resolver este problema.

- Epígrafe 1: España considera que se debería tratar de distinta forma el caso en que las aglomeraciones viertan al mar.
 - Si bien entendemos que la eliminación de nutrientes es clave para abordar la eutrofización de aguas costeras en el Mar Mediterráneo, en el océano Atlántico esta necesidad (o, al menos, tan estricta) no parece tan necesaria. Las obligaciones deberían ir **vinculadas al cumplimiento estricto de las respectivas Estrategias Marinas**, y no de manera uniforme para todos los vertidos al mar.
 - Por otra parte, puesto que la eliminación del tipo de nutriente es opcional y su elección depende de las condiciones locales, no está claro cómo se debe proceder en las grandes poblaciones.
- Epígrafes 1 y 3: España considera adecuada la distinción que se realiza en los epígrafes 1 y 3 entre estaciones depuradoras de aguas residuales (sujetas a tratamiento terciario) y aglomeraciones urbanas (para zonas en riesgo de eutrofización), ya que como aclaró la COM, se puede asumir que una aglomeración urbana puede contener varias depuradoras y puntos de vertido a masas de agua con distinta susceptibilidad, o bien varias aglomeraciones urbanas pueden estar servidas por una única depuradora.
- Epígrafe 2: si bien el plazo aquí es más asumible, insistimos en la conveniencia de que todos ellos deben ir ajustados a los Ciclos de Planificación Hidrológica; así, debería posponerse la fecha de 31/12/2025 a 2027 (cuarto ciclo de planificación).
 - Los plazos de comienzo (“starting on...”) deberían ser plazos relativos desde la entrada en vigor de la Directiva, no plazos absolutos.
- Epígrafe 3: volvemos a **alertar** de la enorme dificultad de garantizar que “todas las aguas de residuales urbanas que entrar a los sistemas de colectores serán sujetas a un tratamiento terciario (...) antes de su descarga”. Según la definición de aguas residuales urbanas proporcionada, puede incluir la escorrentía urbana que, a su vez, es la causa principal de desbordamiento de los sistemas de saneamiento en episodios de lluvia. Este nivel de tratamiento terciario es **inabordable** para la totalidad del agua que se puede recoger durante muchos de esos episodios (con especial referencia a los más extremos). Ello debería ajustarse a la cantidad que se admita verter sin tratamiento en el Plan Integrado de Gestión.
- Epígrafe 4.2: España **no podría admitir un acto delegado** que implique que la Comisión Europea “adapte los requisitos” del Anexo I.D, y por tanto de la Tabla 2, que incluye los requisitos de eliminación de nutrientes, de manera unilateral. Se pueden admitir adaptación de las metodologías, siempre que se cuente con la participación de los Estados Miembro, pero no de los requisitos formales.

b) Comentarios sobre las definiciones asociadas

- “Tratamiento terciario”: la definición hace referencia a eliminar nitrógeno y fósforo; esto es incongruente con el Anexo I.D, Tabla 2, donde dice que se podrá aplicar **uno o ambos parámetros** (nitrógeno y fósforo) según las condiciones locales. Se debería aclarar cuándo se den considerar ambos nutrientes, y cuándo uno sólo de ellos.

c) Comentarios sobre los Anexos relacionados

- Anexo 1D, epígrafe 4.c: mientras que aquí se hace referencia al cumplimiento de la media anual para nitrógeno y fósforo, en el artículo 7.4 se hace referencia a permitir un cierto número de muestras que no cumplen (con los criterios de la Tabla 4). No parece consistente.
- Anexo 1D (Tabla 2): España ya ha advertido sobre la extrema dificultad que implica el cumplimiento de los valores límite de emisión de N y P que se han incluido en el Anexo I, parte B, tabla 2 para todas las plantas mayores de 10.000 he. Son límites muy estrictos, que se reducen prácticamente a la mitad respecto a los actualmente exigibles y que no entendemos suficientemente justificados.
 - En cambio, si bien tampoco aparecen justificados los umbrales en porcentaje mínimo de reducción en la Evaluación de Impacto estos nos parecerían más aceptables, si bien implicaría la modificación de las autorizaciones de vertido en España que, en su amplia mayoría se otorgaron con valores límites de emisión referidos a concentraciones.
 - Las concentraciones de nutrientes en el efluente de las plantas que indica el proyecto son más bajas que los umbrales de nutrientes que determinan el buen estado en las masas de agua superficial continentales en España. Esto no parece coherente.
- Anexo 2: parece incongruente con la definición de tratamiento terciario, ya que parece permitir que se elimine nitrógeno, o fósforo, o ambos, según las circunstancias, y no ambos en todo caso.
 - Tampoco parece claro el término “grandes aglomeraciones”, ya que las listas de zonas sensibles a la eutrofización resultan de aplicación a todas las aglomeraciones mayores de 10.000 h-e. ¿Qué se debe entender, entonces, por “gran aglomeración”?
 - España apoya la nueva redacción del cuarto epígrafe, ya que entiende que el objetivo último es alcanzar el buen estado ecológico y los objetivos medioambientales de la DMA. De hecho, así se ha empezado a aplicar recientemente para la actualización de zonas sensibles y nos alegra que se refuerce este criterio.

ARTÍCULOS 8 – TRATAMIENTO CUATERNARIO

España está de acuerdo en los objetivos planteados, pero reitera que los plazos fijados en esta materia son muy difíciles de alcanzar y, por tanto, deberían ampliarse, al menos para ajustarlos a los Ciclos de Planificación. La eliminación en planta de microcontaminantes requerirá más consumo energético, lo que implicará redoblar el esfuerzo para alcanzar la neutralidad climática en aquellas plantas que requieran esta eliminación de microcontaminantes, en el mismo plazo. Además, deben tratar de acoplarse adecuadamente los artículos 8 y 9.,

a) Comentarios por epígrafes

- **Epígrafe 1:** España está de acuerdo con la necesaria eliminación de microcontaminantes, pero quizás sea razonable subir el umbral de h-e.
 - Por ejemplo, en el caso de España, subiendo el umbral a 200.000 h-e, en apenas 105 EDAR se trata más del 55% de la carga contaminante del país. Además, se trata de zonas eminentemente urbanas donde habrá, en general, más concentración de microcontaminantes y un enfoque basado en el riesgo considerará más adecuado actuar.
 - De nuevo, respecto a los **plazos** para la elaboración de listados y, sobre todo, para la implementación de tratamientos cuaternarios, se reiteran las **mismas consideraciones realizadas con respecto al tratamiento secundario (art. 6) y terciario (7)**. Es decir, se debería posponer el primer listado para 2027, el primer grupo de instalaciones para 2033 (primer 50%) y el segundo para 2039 (alcanzar el 100%), sin perjuicio de que las plantas que cumplan con la directiva actual y tengan menos de 10 años no deberían modificarse hasta el ciclo de planificación 2039-2045, para que gocen de una vida útil de unos 25 años.
- **Epígrafe 2:** España considera una **línea roja** plantear el desarrollo de un listado de áreas con riesgo de concentración de microcontaminantes con los criterios expuestos ya que, en resumen, implicaría incluir casi todas las aglomeraciones urbanas. Además, este tipo de evaluación de impactos y riesgos ya se realiza en el marco de la DMA y los Ciclos de Planificación Hidrológica.
 - En el segundo párrafo, se debería plantear un enfoque basado en el riesgo, incluyendo áreas donde se demuestre que existe dicho riesgo a la salud humana o al medio ambiente, y no al revés (“unless the absence...”).
 - A modo de ejemplo, con el criterio (b) se debería demostrar la ausencia de riesgo en las más de 2.200 aguas de baño de nuestro país. Considerando el criterio (d), nuestros ríos tienen unos ratios de dilución muy bajos o, incluso, nulos. Por ejemplo, en las regiones mediterráneas hay vertidos a cauce seco; o en la región metropolitana de Madrid los caudales de vertido de las depuradoras exceden en 7-10 veces el caudal de los ríos receptores.

- Epígrafe 4: se debería cambiar el término “aglomeración” por “estación depuradora de aguas residuales”. En una aglomeración de 10.000 h-e podrían existir dos estaciones depuradoras de 5.000 h-e, donde implantar un tratamiento cuaternario es completamente excesivo, especialmente en cuanto a costes.

b) Comentarios sobre las definiciones asociadas

- “Dilution ratio”: para España es importante que se mantenga la consideración de caudales medios y no mínimos, debido a la variabilidad de los caudales a lo largo del año.

c) Comentarios sobre los Anexos relacionados

- Anexo 1, Tabla 3: se entiende que se ha copiado el modelo suizo.
 - España tiene numerosas dudas acerca de la idoneidad de pedir una eliminación del 80 % desligada de la concentración carga contaminante influente, pudiendo ser complicado conseguir ese 80% para todos los contaminantes, sin conocer su concentración previa. **El requisito de eliminación debería ir vinculado a la concentración habitual detectada.**
 - Con el planteamiento suizo, se infiere la necesidad de implantar un sistema de carbón activo con ozono, mientras que la evaluación de impacto pretendía dar libertad a los países para la elección del sistema de eliminación de microcontaminantes.
 - La lista de sustancias debería ir vinculada con el Sistema de Responsabilidad Extendida del Productor, ya que pueden existir productores de otros microcontaminantes, que viertan en gran concentración, que podrían verse exonerados. Con este planteamiento, parece entender que las sustancias que no están listadas no se consideran microcontaminantes y sus productores no se verían afectados.
 - **La lista de sustancias debería ir vinculada a una normativa de análisis de referencia, ya que en algunos casos nos estamos encontrando con que éstos están en fase experimental y no podemos valorar su coste.**
 - Se podría plantear un sistema por categorías de sustancias que no se eliminan en un tratamiento secundario, eligiendo indicadores de contaminación para cada uno de ellos, y obligaciones de reducción particularizadas y razonables.

ARTÍCULO 9 – RESPONSABILIDAD EXTENDIDA DEL PRODUCTOR

España comparte con la COM que la medida más efectiva para prevenir este tipo de contaminación, tanto para microcontaminantes como para microplásticos, es el control en origen. Los vertidos procedentes de instalaciones industriales, hospitalarias o similares deberían tener la obligación de contar con sus propias instalaciones para llevar a cabo una adecuada eliminación, previa a su vertido al sistema urbano de saneamiento y depuración.

Sin embargo, España no tiene experiencia en la aplicación de este concepto en el ámbito de las aguas residuales, solo en residuos, y desde hace relativamente poco tiempo. Además, en este caso, podríamos estar hablando de unos residuos que, teniendo en cuenta las sustancias consideradas para aplicar la Responsabilidad Extendida, no son reciclables y que podrían asimilarse al tabaco o los cigarrillos. España considera que podríamos apoyarnos en esa referencia y aprovechar la experiencia al respecto.

Además, se deberían delimitar la situación de los envases de los productos sobre los que aplica la Responsabilidad Extendida, ya que estos envases, por extensión, podrían estar afectados por la Directiva Marco de Residuos.

También parecen existir distintos productos cosméticos que estarían afectados por la RAP de productos plásticos de un solo uso. Por ejemplo, en el caso de las toallitas húmedas, que a menudo también incluyen microplásticos y que, por tanto, entran en ámbito de aplicación de los plásticos de un solo uso, deberían cumplir con la Responsabilidad Extendida de esta Directiva, pero también conforme la Responsabilidad Extendida como residuos y como envases. Se podría producir confusión en todo esto, que quizá convenga clarificar, por lo que consideramos necesario analizar más en detalle y encajar todas estas cuestiones.

Por otra parte, no podemos apoyar la adopción unilateral de **actos de ejecución** sin previa participación activa de los países.

a) Comentarios por epígrafes

- Epígrafe 1: a España le surge la duda de si a un fabricante de sustancias microcontaminantes no incluidas en el Anexo I se le puede exigir que pague el tratamiento cuaternario simplemente por ser un productor de medicamentos (por ejemplo, ibuprofeno).
 - Quizás debería incluirse una doble lista, con categorías/indicadores de control del tratamiento cuaternario y una lista más amplia de microcontaminantes incluidos en la responsabilidad ampliada.
- Epígrafe 1.a: España ya ha manifestado la necesidad de aclarar, de manera expresa, que se incluyen aquí todos los costes de inversión, explotación y mantenimiento del tratamiento cuaternario que debe cubrir la responsabilidad ampliada del productor, a efectos de facilitar la recuperación de costes, incluyendo los costes energéticos.
 - La COM debería aclarar cómo se produciría el incumplimiento por los artículos 8 y 9. ¿Si los productores incluidos en el Sistema de Responsabilidad no pagan, el Estado Miembro debe asumir todos los costes? ¿O se deberán implantar los tratamientos cuaternarios y posteriormente recuperar los costes? ¿Qué se debe conseguir antes? Esta indefinición podría implicar que acabará pagando el usuario, careciendo entonces de sentido este sistema.

b) Comentarios sobre los Anexos relacionados

- Nos remitimos a los comentarios del artículo 8, Anexo 3.

ARTÍCULO 13 – CONDICIONES CLIMÁTICAS LOCALES

- ¿A qué se refiere la COM con “normal local conditions”?
- Este artículo debería hacerse extensivo, o aclararse, para conocer la intensidad con la que se puede aplicar. Como ya se ha manifestado, no puede considerarse un vertido en el Mediterráneo que en el Atlántico; ni un tratamiento biológico en latitudes septentrionales que en otras meridionales.
- Este artículo parece olvidado, pero podría permitir la suficiente flexibilidad y proporcionalidad, mediante un enfoque basado en el riesgo, para un cumplimiento eficaz de los objetivos planteados por la Directiva.

ARTÍCULO 18 – EVALUACIÓN DEL RIESGO Y GESTIÓN

España entiende la intención de la COM con este artículo, pero considera que la mayoría de las cuestiones recogidas en él ya se realizan en el marco de la DMA y, por tanto, deberían recogerse en los Planes Hidrológicos de Cuenca. El **artículo 5 de la DMA**, ya recoge la obligación de llevar a cabo un análisis sobre las repercusiones, presiones e impactos de la actividad humana sobre el estado de las aguas, que debe actualizarse cada 6 años. También encajan aquí los análisis de riesgo de la nueva Directa de aguas de consumo humano, por lo que sería importante agrupar estos trabajos evitando disfuncionalidades y confusión legislativa.

a) Comentarios por epígrafes

- Epígrafe 1: se debería integrar la evaluación de riesgo dentro de la propia planificación hidrológica, de acuerdo con la DMA y con el objetivo último de alcanzar el cumplimiento de los objetivos medioambientales. En consecuencia, se debería evitar duplicar evaluaciones de riesgo.
- Epígrafe 3: España reitera que los plazos planteados de revisión deberían ajustarse a los ciclos de planificación hidrológica.

ARTÍCULO 21 – MONITORING

España no entiende el objetivo de este exhaustivo análisis y búsqueda de sustancias, con una frecuencia que no permite una monitorización efectiva, en caso de ser necesaria. Tampoco puede apoyar la adopción unilateral de actos de ejecución sin previa participación de los países.

a) Comentarios por epígrafes

- Epígrafe 1: debe aclararse, o profundizar la explicación de quiénes son realmente son las autoridades competentes responsables de hacer este control, así como quién debe asumir el coste, que debería recaer en los operadores, mientras que las autoridades competentes deberán asegurar que se realice adecuadamente (pero no hacerlo ellas mismas).
- Epígrafe 1.b: debe asegurarse que existe una adecuada correspondencia entre lo aquí dispuesto y la Directiva 86/278 de lodos de depuración (y su futura revisión, en su caso).
- Epígrafe 1.c: pensamos que debería existir una coordinación con lo que pide el Reglamento 2020/741 relativo a los requisitos mínimos para la reutilización.
- Epígrafe 3: España no alcanza a entender la necesidad de tener que analizar todos estos parámetros en las aguas residuales urbanas. Muchos de estos parámetros aparecen en más de una de las listas mencionadas; otros no tienen que ver con aguas residuales domésticas (uranio, cloruro de vinilo, etc.), se recogen muchos plaguicidas, etc.
 - Estos contaminantes, en el marco de la Propuesta, solo se emplean para identificar zonas con vertidos de aguas residuales no domésticas. La información debería obtenerse con un objetivo: en estas zonas, se deberían analizar los parámetros vinculados con estos vertidos, y analizar únicamente esos.
 - Debería aclararse que la monitorización de las sustancias de estos listados no supone solapamiento con requisitos de otras legislaciones.
- Epígrafe 3, párrafo 3: las frecuencias de monitorización propuestas son muy escasas y no permiten obtener información significativa, sino excesivamente puntual. Consideramos hace más difícil comprender cuál es el fin buscado con el análisis de todas estas sustancias.

b) Comentarios sobre las definiciones asociadas

- Se debería incluir una definición de “microplástico”, ya que se exige su monitoring.

**COMMENTS ON THE LEGISLATIVE PROPOSAL FOR THE
REVISION OF THE UWWTD - COM (2022) 541 FINAL**

Interinstitutional file: 2022/0345(COD)

Meeting of the WPE - 27 January 2022

[ENGLISH VERSION]

23/01/2023

GENERAL COMMENTS

Spain thanks the Swedish Presidency for the possibility to send comments on the articles and annexes proposed for discussion at the WPE meeting.

Spain's comments are intended to raise possible proposals for amendments. While Spain could generally agree with the proposal, and thanks the Commission for its environmental ambition, which it shares, it does not consider the implementation deadlines to be reasonable, as it considers them to be unachievable. The proposed deadlines are decoupled from the deadlines foreseen for the planning cycles established by the Water Framework Directive.

ARTICLE 7 – TERTIARY TREATMENT

Spain could agree with nutrients removal in agglomerations of 100,000 p.e. or more, although we consider it necessary to delay the 2035 horizon to 2039 in order to comply with the Hydrological Planning Cycles. Besides, Spain considers it necessary to clarify in the Proposal, or differentiate, the difference that should exist between reuse of treated water for agricultural irrigation, which would not necessarily require tertiary treatment in favour of circular economy of nutrients (phosphorus and nitrogen), and the concept of wastewater discharge.

c) Comments on paragraphs

- Paragraph 1: it seems appropriate to maintain that the first updates of infrastructures should refer to those which, on entry into force of the Directive, do not have tertiary treatment and thus avoid modifying UWWTPs which currently comply with tertiary treatment, making it easier for them to reach the end of their useful life. This should be clarified in case the COM does not understand it in this way.

- Currently, measures and actions are already foreseen in the approved Programmes of Measures for 2027 (end of the Third Planning Cycle). It has not been possible to foresee the new requirements in the Proposal, so the two following planning cycles will be required to implement all the necessary actions (first 50% by 2033 and 100% by 2039).
- The article would be more coherent if the groups of wastewater treatment plants to be part of the first 50% (closest time horizon), or the next 50% (until 100% is reached in the second time horizon), were identified by the Member State from the list of areas sensitive to eutrophication referred in section 2 (which in turn identifies urban agglomerations).
- This identification should include the consideration of various factors, such as the impact of discharges on the environment or the age and compliance of treatment plants with the current Directive.
- In any case, the most modern UWWTPs, which are in compliance with the current Directive, should be allowed to enjoy an extended period of time before being forced to refurbishment. This would prevent newly built facilities, or facilities that are to going to be commissioned during the Third Planning Cycle, from becoming immediately obsolete. It is neither sustainable nor in line with the cost-effective principle that these new facilities would need to be refurbished in a timeframe much shorter than their expected payback period.
- For example, those plants that are less than 10 years old could be moved to an extra "third group" where their refurbishment should be completed other 6 years later (in the Sixth Planning Cycle), i.e. one planning cycle after the proposed second group. Consequently, the proposed 50% and 100% tranches would not include these plants of less than 10 years which are compliant with the current Directive, allowing sufficient time for their depreciation and to update them to the new Directive at a later stage.
- The same approach could be considered for the actions to be taken to ensure compliance with Article 6 on secondary treatment.
- Spain has already expressed the difficulty increasing the requirements of nitrogen removal, both from the point of view of the necessary infrastructures and the technical requirements. In addition to the temperature or the need for additional reagents, larger facilities will be required; however, in many of current facilities, there is no physical space for their implementation. This is not an easy problem to solve.

- Paragraph 1: Spain considers that agglomerations/UWWTPs discharging into the ocean should be treated differently.
 - While we understand that nutrient removal is key to tackling eutrophication of coastal waters in the Mediterranean Sea, in the Atlantic Ocean this need (or at least as strict) does not seem so necessary. Obligations should be linked to strict compliance with the respective Marine Strategies, and not uniformly for all discharges to the sea.
 - On the other hand, since the removal of the type of nutrient is optional and the choice depends on local conditions, it is not clear how to proceed for large stocks.
- Paragraphs 1 and 3: Spain considers the distinction made in sections 1 and 3 between UWWTPs (subject to tertiary treatment) and agglomerations (for areas at risk of eutrophication) to be appropriate, since, as clarified by COM, it can be assumed that an agglomeration may contain several treatment plants and discharge points to water bodies with different sensibility, or several agglomerations may be served by a single facility.
- Paragraph 2: although the deadline here is more acceptable, we insist on the convenience that all of them should be adjusted to the Hydrological Planning Cycles; thus, the date of 31/12/2025 could be postponed to 2027 (fourth planning cycle).
 - The "starting on..." deadlines should be relative deadlines from the entry into force of the Directive, not absolute deadlines.
- Paragraph 3: we again draw attention to the enormous difficulty of ensuring that "all urban wastewater entering the sewer systems will be subject to tertiary treatment (...) before discharge". According to the definition of urban wastewater provided, this may include urban runoff which, in turn, is the main cause of overflows of sewers in rainfall events. This level of tertiary treatment is unaffordable for the total amount of water that can be collected during many of these events (with particular reference to the most extreme ones). This should be in line with the amount allowed to be discharged without treatment in the Integrated Urban Wastewater Management Plans.
- Paragraph 4.2: Spain cannot accept a delegated act that implies that the European Commission "adapts the requirements" of Annex I.D, and therefore of Table 2, which includes nutrient removal requirements, unilaterally. Adaptation of methodologies is acceptable, provided that Member States are involved, but not of the formal requirements.

d) Comments on associated definitions

- 'Tertiary treatment': the definition refers to the removal of nitrogen and phosphorus; this is inconsistent with Annex I.D, Table 2, which states that one or both parameters (nitrogen and phosphorus) may be applied depending on local conditions. It should be clarified when both nutrients are to be considered, and when only one of them is to be considered.

e) Comments on related annexes

- Annex 1D, section 4.c: while reference is made here to compliance with the annual average for nitrogen and phosphorus, also another reference is made in Article 7.4 to allowing a certain number of samples that do not comply (related with the criteria in Table 4). This does not seem consistent.
- Annex 1D (Table 2): Spain has already warned about the extreme difficulty in complying with the emission limit values for N and P that have been included in Annex I, Part B, Table 2 for all plants larger than 10,000 p.e. These are very strict limits, which are reduced by almost half compared to those currently required and which we do not consider to be sufficiently justified.
 - On the other hand, although the minimum percentage reduction thresholds are not justified in the Impact Assessment, these would seem more acceptable to us, although they would imply the modification of the discharge authorisations in Spain, the vast majority of which were granted with emission limit values referring to concentrations.
 - The nutrient concentrations in the effluent of the plants indicated in the project are lower than the nutrient thresholds that determine good status in continental surface water bodies in Spain. This does not seem consistent.
- Annex 2: it seems inconsistent with the definition of tertiary treatment, as it seems to allow either nitrogen or phosphorus, or both, to be removed, depending on the circumstances, and not both in all cases.
 - The term 'large agglomerations' does not seem clear either, as the lists of areas sensitive to eutrophication apply to all agglomerations larger than 10,000 p.e. What then should be understood by large agglomeration'?
 - Spain supports the new wording of the fourth paragraph, as it understands that the ultimate objective is to achieve good ecological status and the environmental objectives of the WFD. In fact, this has recently started to be applied for the last update of sensitive areas and we are pleased that this criterion is being reinforced.

ARTICLE 8 – QUATERNARY TREATMENT

Spain agrees with the targets set but insists that the deadlines proposed are very difficult to achieve and should therefore be extended, at least to bring them into line with the Planning Cycles. Besides, the removal of micropollutants will require more energy consumption, which will imply a redoubling of efforts to achieve climate neutrality in those plants that require this removal of micropollutants, within the same timeframe. In addition, Articles 8 and 9 should be appropriately coupled.

a) Comments on paragraphs

- Paragraph 1: Spain agrees with the necessary elimination of micropollutants, but it may be reasonable to raise the h-e threshold.
 - For example, in the case of Spain, by raising the threshold to 200,000 p.e., in just 105 UWWTPs we treat more than 55% of the country's pollutant load. In addition, these are predominantly urban areas where there will generally be higher concentrations of micropollutants and a risk-based approach would be more appropriate.
 - Again, with regard to the deadlines for listing and, above all, for the implementation of quaternary treatments, the same considerations made with regard to secondary (article 6) and tertiary (article 7) treatment are reiterated. In other words, the first list should be postponed to 2027, the first group of installations to 2033 (first 50%) and the second to 2039 (reaching 100%), without prejudice to the fact that plants that comply with the current directive and are less than 10 years old should not be modified until the planning cycle 2039-2045, so that they have a useful life of around 25 years.
- Paragraph 2: Spain considers it a **red line** to consider the development of a list of areas at risk of micropollutant concentration with the criteria set out since, in summary, it would mean including almost all agglomerations. Moreover, this type of impact and risk assessment is already carried out in the framework of the WFD and the Hydrological Planning Cycles.
 - In the second paragraph, a risk-based approach should be considered, including areas where it is demonstrated that there is a risk to human health or the environment, and not the other way around ("unless the absence...").
 - As an example, under criterion (b), the absence of risk should be demonstrated for the more than 2,200 bathing waters in our country. Considering criterion (d), our rivers have very low or even zero dilution rates. For example, in the Mediterranean regions there are discharges into dry riverbeds; or in the metropolitan region of Madrid the discharge flows from wastewater treatment plants exceed the flow of the receiving rivers by 7-10 times. This will imply an enormous administrative burden.
- Paragraph 4: the term 'agglomeration' should be changed to 'wastewater treatment plant'. In an agglomeration of 10,000 p.e. there could be two 5,000 p.e. wastewater treatment plants, where implementing a quaternary treatment is completely excessive, especially in terms of costs.

b) Comments on associated definitions

- 'Dilution ratio': for Spain it is important to maintain the consideration of average and not minimum flows, due to the variability of flows throughout the year.

c) Comments on related annexes

- Annex 1, Table 3: it is understood that the Swiss model has been trasponed.
 - Spain has many doubts about the appropriateness of requesting an 80% removal unlinked to the influent pollutant load concentration, as it may be complicated to achieve this 80% for all pollutants without knowing their former concentration. The removal requirement should be linked to the usual concentration detected.
 - The Swiss approach implies the need to implement an activated carbon system with ozone, whereas the impact assessment was intended to give countries the freedom to choose the system for the removal of micropollutants.
 - The list of substances should be linked to the Extended Producer Responsibility system, as there may be producers of other micropollutants, discharging in high concentration, who could be exempted. With this approach, it seems to be understood that substances that are not listed are not considered to be micropollutants and their producers would not be affected.
 - The list of substances should be linked to a reference analysis regulation, since in some cases we are finding that these are in the experimental phase and we cannot assess their cost.
 - A system by categories of substances that are not removed in secondary treatment could be envisaged, choosing pollution indicators for each of them, and specific and reasonable reduction obligations.

ARTICLE 9 – EXTENDED PRODUCER RESPONSIBILITY

Spain agrees with the COM that the most effective measure to prevent this type of pollution, both for micropollutants and microplastics, is its control at source. Discharges from industrial, hospital or similar facilities should be obliged to have their own facilities to carry out adequate disposal prior to discharge into the urban sewage and wastewater treatment system.

However, Spain has no experience in the application of this concept in the field of wastewater, only in waste, and only relatively recently. Moreover, in this case, we could be talking about waste that, taking into account the substances considered for the application of Extended Responsibility, are not recyclable and could be assimilated to tobacco or cigarettes. Spain considers that we could build on this reference and take advantage of experience in this respect.

In addition, the situation of the packaging of products to which Extended Responsibility applies should be delimited, as this packaging, by extension, could be affected by the Waste Framework Directive (D/2008/98).

There also appear to be a number of cosmetic products that would be affected by the EPR for single-use plastic products. For example, in the case of wet wipes, which often also include microplastics and therefore fall under the scope of single-use plastics, they should comply with the Extended Responsibility of this Directive, but also under the Extended Responsibility as waste and as packaging. There could be confusion in all this, which may need to be clarified, and we therefore consider it necessary to analyse all these issues in more detail and to bring them together.

On the other hand, we cannot support the unilateral adoption of **implementing acts** without prior active involvement of the countries.

a) Comments on paragraphs

- Paragraph 1: Spain has doubts whether a manufacturer of non-Annex I micropollutants can be required to pay for quaternary treatment simply because he is a producer of medicinal products (e.g. ibuprofen).
 - Perhaps a double list should be included, with quaternary treatment control categories/indicators and a broader list of micropollutants included in the extended liability.
- Paragraph 1(a): Spain has already expressed the need to clarify more explicitly that all investment, operation and maintenance costs of quaternary treatment covered by the Extended Producer Responsibility are included here, in order to facilitate cost recovery, including energy costs.
 - The COM should clarify how non-compliance with Articles 8 and 9 would occur. If producers included in the responsibility system do not pay, should the Member State bear with all costs? Or should quaternary treatments be implemented, and costs recovered afterwards? What should be achieved first? This lack of clarity could mean that the common user will end up paying, making the system meaningless.

b) Comments on related annexes

- We refer to the comments in Article 8, Annex 3.

ARTICLE 13 – LOCAL CLIMATIC CONDITIONS

- What does COM mean by ‘normal local conditions’?
- This article should be extended, or clarified, in order to know the intensity with which it can be applied. As has already been stated, a discharge in the Mediterranean cannot be considered the same as a discharge in the Atlantic; nor can biological treatment in northern latitudes be considered the same as in southern latitudes.
- This article seems to be forgotten, but it could allow sufficient flexibility and proportionality, through a risk-based approach, for effective compliance with the objectives of the Directive.

ARTICLE 18 – RISK ASSESSMENT AND MANAGEMENT

Spain understands the intention of the COM with this article but considers that most of the issues included in it are already carried out within the framework of the WFD and, therefore, should be included in the River Basin Management Plans. Article 5 of the WFD already includes the obligation of carrying out an analysis of the repercussions, pressures and impacts of human activity on water status, which must be updated every 6 years. The risk analysis of the new Directive on water for human consumption also fit in here, so it would be important to group these works together to avoid dysfunctionalities and legislative confusion.

a) Comments on paragraphs

- Paragraph 1: risk assessment should be integrated into water planning itself, in accordance with the WFD and with the ultimate aim of achieving environmental objectives. Consequently, duplication of risk assessments should be avoided.
- Paragraph 3: Spain reiterates that the proposed revision deadlines should be adjusted to the hydrological planning cycles.

ARTICLE 21 – MONITORING

Spain does not understand the purpose of this exhaustive analysis and search for substances, with a frequency that does not allow for effective monitoring, if necessary. Nor can it support the unilateral adoption of **implementing acts** without prior involvement of the countries.

a) Comments on paragraphs

- Paragraph 1: it should be clarified, or further explained, who the competent authorities are actually responsible for carrying out this control, and who should bear the cost, which should be borne by the operators, while the competent authorities should ensure that it is carried out properly (but not do it themselves).
- Paragraph 1(b): it must be ensured that there is a proper correspondence between the provisions here and the Sewage Sludge Directive 86/278 (and its future revision, if appropriate).
- Paragraph 1(c): we believe that there should be coordination with the requirements of Regulation 2020/741 concerning minimum requirements for reuse.
- Paragraph 3: Spain fails to understand the need to analyse all these parameters in urban wastewater. Many of these parameters appear in more than one of the abovementioned lists; others are not related to domestic wastewater (uranium, vinyl chloride, etc.), many pesticides are collected, etc.
 - These pollutants, in the framework of the Proposal, are only used to identify areas with non-domestic wastewater discharges (art.16). The information should be collected for one purpose: in these areas, the parameters linked to these discharges should be analysed, and only those should be analysed.

- It should be clarified that the monitoring of the substances in these lists does not overlap with requirements of other legislation.
- Paragraph 3.3: the proposed monitoring frequencies are very low and do not allow for meaningful information to be obtained but are excessively punctual. We believe that this makes it more difficult to understand what the purpose of testing all these substances is.

b) Comments on associated definitions

- A definition of 'microplastics' should be included, as monitoring is required.
-

SPAIN

**Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
concerning urban wastewater treatment (recast)**

[PROPOSALS FOR MODIFICATIONS OF THE TEXT]

Article 2 - Definitions

For the purpose of this Directive, the following definitions apply:

[...]

(12) **'tertiary treatment'** means treatment of urban wastewater by a process which removes **nitrogen and/or phosphorus** from the urban wastewaters;

(13) **'quaternary treatment'** means treatment of urban wastewater by a process which removes a broad spectrum of micro-pollutants from the urban wastewaters;

[...]

(16) **'micro-pollutant'** means a substance, including its breakdown products, that is usually present in the environment and urban wastewaters in concentrations below milligrams per litre and which can be considered hazardous to human health or the environment based on any of the criteria set out in Part 3 and Part 4 of Annex I to Regulation EC ;

(16 bis) 'micro-plastic'

(17) **'dilution ratio'** means the ratio between the volume of annual flow of the receiving waters at the point of discharge and the annual volume of urban wastewater discharged from a treatment plant;

(18) **'producer'** means any manufacturer, importer or distributor that on a professional basis places products on the market of a Member State, including by means of distance contracts as defined in Article 2(7) of Directive 2011/83/EU means;

(19) **'Producer Responsibility Organisation'** means an organisation established collectively by producers for the purpose of fulfilling their obligations under Article 9;

[...]

(23) **'plastic biomedica'** means a plastic support used for the development of the bacteria needed for the treatment of urban wastewaters;

(24) **'placing on the market'** means the first making available of a product on the market of a Member State.

Article 7 - Tertiary treatment

1. By 31 December 2030, Member States shall ensure that discharges from 50 % of urban wastewater treatment plants ~~-treating a load of 100 000 p.e. and above and not applying tertiary treatment on~~ [OP please insert the date = the date of entry into force of this Directive] are subject to tertiary treatment in accordance with paragraph 4.

By 31 December 2035, Member States shall ensure that all urban wastewater treatment plants treating a load of 100 000 p.e. and above are subject to tertiary treatment in accordance with paragraph 4.

2. By 31 December 2025, Member States shall establish a list of areas on their territory that are sensitive to eutrophication and update that list every five years and starting-at the latest X years after the date of entry into force of this Directive. on 31 December 2030.

The list referred to in the first subparagraph shall include the areas identified in Annex II.

The requirement set out in the first subparagraph shall not apply where a Member State implements tertiary treatment in accordance with paragraph 4 in its entire territory.

3. By 31 December 2035, Member States shall ensure that for 50 % of the agglomerations of between 10 000 p.e. and 100 000 p.e. that are discharging into areas included in the list referred to in paragraph 2 and not applying tertiary treatment on [OP please insert the date = the date of entry into force of this Directive] urban wastewater entering collecting systems is subject to tertiary treatment in accordance with paragraph 4 ~~i~~ before discharge into those areas.

By 31 December 2040, Member States shall ensure that urban wastewater entering collecting systems is subject to tertiary treatment in accordance with paragraph 4 before discharge into areas included in a list referred to in paragraph 2 with regard to all agglomerations of between 10 000 p.e. and 100 000 p.e. without prejudice to the provisions of the Integrated Urban Wastewater Management Plans, regarding urban runoff and storm water overflows

4. Samples taken in accordance with Article 21 and Part D of Annex I of this Directive shall comply with the parametric values set out in table 2 of Part B of Annex I. The maximum permitted number of samples which fail to conform to the parametric values of table 2 of Part B of Annex I will be assessed according to the annual mean of the samples reported. is set out in table 4 of Part D of Annex I.

The Commission is empowered to adopt delegated acts in accordance with the procedure referred to in Article 27 to amend Parts B and D of Annex I in order to adapt the requirements and methods referred to in the second subparagraph to technological and scientific progress. The Commission will require the active participation of MS during the elaboration of these delegated acts.

5. By way of derogation from paragraphs 3 and 4, Member States may decide that an individual urban wastewater treatment plant situated in an area included in a list referred to in paragraph 2 shall not be subject to the requirements set out in paragraphs 3 and 4 where it can be shown that the minimum percentage of reduction of the overall load entering all urban wastewater treatment plants in that area is:

(a) 82,5 % for total phosphorus and 80 % for total nitrogen by 31 December 2035;

(b) 90 % for total phosphorus and 85 % for total nitrogen by 31 December 2040.

6. Discharges from urban wastewater treatment plants of 10 000 p.e. and above into a catchment area of an area sensitive to eutrophication included in a list referred to in paragraph 2 shall also be subject to paragraphs 3, 4 and 5.

7. Member States shall ensure that discharges from urban wastewater treatment plants which are situated in an area included in a list referred to in paragraph 2 following one of the regular updates of the list required by that paragraph fulfil the requirements laid down in paragraphs 3 and 4 within seven years of the inclusion in that list.

Article 8 - Quaternary treatment

1. By 31 December 2030, Member States shall ensure that 50 % of discharges from urban wastewater treatment plants treating a load of 100 000 p.e. and above are subject to quaternary treatment in accordance with paragraph 5.

By 31 December 2035, Member States shall ensure that all urban wastewater treatment plants treating a load of 100 000 p.e. and above are subject to quaternary treatment in accordance with paragraph 5.

2. On 31 December 2030, Member States shall have established a list of areas on their national territory where the concentration or the accumulation of micro-pollutants represents a risk for human health or the environment. Member States shall review that list every five years thereafter and update it if necessary.

The list referred to in the first subparagraph shall include the following areas, ~~unless the absence of~~ a risk for human health or the environment in those areas can be demonstrated based on a risk assessment in the framework of the Directive 2000/60/EC:-

~~(a) water bodies used for abstraction of water intended for human consumption as defined in Article 2, point (1), of Directive (EU) 2020/2184;~~

~~(b) areas where the presence of micro-pollutants is likely to exceed the limits set out in Article 13(2) of Directive (EU) 2020/2184;~~

~~(f) areas where additional treatment is necessary to meet the requirements set out in Directives 2000/60/EC and 2008/105/EC.~~

3. The Commission is empowered to **adopt implementing acts** establishing the format of the risk assessment referred to in paragraph 2, second subparagraph, and the method to be used for that risk assessment. Those implementing acts shall be adopted in accordance with the examination

procedure referred to in Article 28(2). The Commission will require the active participation of MS during the elaboration of these implementing acts.

4. By 31 December 2035, Member States shall ensure that for 50 % of the ~~agglomerations~~ urban wastewater treatment plants of between 10 000 p.e and 100 000 p.e., urban wastewater entering collecting systems is subject to quaternary treatment in accordance with paragraph 5 before discharge into areas included in a list referred to in paragraph 2.

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By 31 December 2040, Member States shall ensure that urban wastewater entering collecting systems is subject to quaternary treatment in accordance with paragraph 5 before discharge into areas included in a list referred to in paragraph 2 with regard to all agglomerations of between 10 000 p.e and 100 000 p.e.

5. Samples taken in accordance with Article 21 and Part D of Annex I of this Directive shall comply with the parametric values set out in table 3 of Part B of Annex I. The maximum permitted number of samples which fail to conform to the parametric values of table 3 of Part B of Annex I is set out in table 4 of Part D of Annex I.

The Commission is empowered to adopt delegated acts in accordance with the procedure referred to in Article 27 to amend Parts B and D of Annex I in order to adapt the requirements and methods referred to in the second subparagraph to technological and scientific progress. The Commission will require the active participation of MS during the elaboration of these delegated acts.

6. By 31 December 2030, the Commission shall adopt implementing acts to establish the monitoring and sampling methods to be used by the Member States to determine the presence and quantities in urban wastewater of the indicators set out in table 3 of Part B of Annex I. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2). The Commission will require the active participation of MS during the elaboration of these implementing acts.

Article 9 - Extended producer responsibility

1. Member States shall take measures to ensure that producers who place any of the products listed in Annex III on the market have extended producer responsibility.

Such measures shall ensure that those producers cover:

- (a) the full costs for complying with the requirements set out in Article 8, including the costs for design, construction, operation, maintenance and exploitation of the quaternary treatment of urban wastewater implemented to remove micro-pollutants resulting from the products and their residues they place on the market, including also the costs for the monitoring of micro-pollutants referred to in Article 21(1), point (a); and
- (b) ~~the all administrative~~ costs for gathering and verifying data on products placed on the market; and
- (c) other costs required to exercise their extended producer responsibility, especially energetic costs.

2. Member States shall exonerate producers from their extended producer responsibility under paragraph 1 where the producers can demonstrate any of the following:

- (a) the quantity of the product they place on the market is below 2 tonnes per year;
- (b) the products they place on the market do not generate micro-pollutants in wastewaters at the end of their life.

3. The Commission is empowered to adopt implementing acts to establish detailed criteria on the uniform application of the condition laid down in paragraph 2, point (b) to specific categories of products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2). The Commission will require the active participation of MS during the elaboration of these implementing acts.

4. Member States shall ensure that producers referred to in paragraph 1 exercise their extended producer responsibility collectively by adhering to a producer responsibility organisation.

Member States shall ensure that:

- (a) the producers referred to in paragraph 1 are required to once every year provide the producer responsibility organisations with the following:
 - (i) the annual quantities of the products listed in Annex III that they place on the market in the context of their professional activity;
 - (ii) information on the hazardouness of the products referred to in point (i) in the wastewaters at the end of their life;
 - (iii) when relevant, a list of products exonerated in accordance with paragraph 2;

(b) the producers referred to in paragraph 1 are required to contribute financially to the producer responsibility organisations in order to cover the costs arising from their extended producer responsibility;

(c) each producer's contribution, as referred to in point (b), is determined based on the quantities and hazardouness in the wastewaters of the products that are placed on the market;

(d) producer responsibility organisations are subject to annual independent audits of their financial management, including their capacity to cover the costs referred to in paragraph 4, the quality and adequacy of the information collected under point (a) and the adequacy of the contributions collected under point (b).

5. Member States shall ensure that:

(a) the roles and responsibilities of all relevant actors involved, including producers referred to in paragraph 1, producer responsibility organisations, private or public operators of urban wastewater treatment plants and local competent authorities, are clearly defined;

(b) urban wastewater management objectives are established in order to comply with the requirements and deadlines set under Article 8(1), (4) and (5) and any other quantitative or qualitative objectives that are considered relevant for the implementation of the extended producer responsibility;

(c) a reporting system is in place to gather data on the products referred to in paragraph 1 placed on the market of the Member State by the producers and data on the quaternary treatment of wastewater, as well as other data relevant for the purposes of point (b).

Article 13 - Local climatic conditions

Member States shall ensure that the urban wastewater treatment plants built to comply with the requirements set out in Articles 6, 7, and 8 are designed, constructed, operated and maintained to ensure sufficient performance under all normal local climatic conditions. When designing the plants, seasonal variations of the load shall be taken into account.

Article 18 - Risk assessment and management

1. By [OP please insert the date = the last day of the second year after the date of entry in force of this Directive], Member States shall identify the risks caused by urban wastewater discharges to the environment and human health and take appropriate measures in order to achieve the environmental objectives, both taking into account the WFD and the objectives in this Directive at least those related to the following:

~~(a) the quality of a water body used for the abstraction of water intended for human consumption as defined in Article 2, point (1), of Directive (EU) 2020/2184;~~

~~(c) the good ecological status of a water body as defined in Article 2, point (22), of Directive 2000/60/EC;~~

Member States shall adopt appropriate measures to address them, which shall include where appropriate the following measures:

- (a) establishing collecting systems in accordance with Article 3 for agglomerations with a p.e. of less than 1 000;
- (b) applying secondary treatment in accordance with Article 6 to discharges of urban wastewater from agglomerations with a p.e. of less than 1 000;
- (c) applying tertiary treatment in accordance with Article 7 to discharges of urban wastewater from agglomerations with a p.e. of less than 10 000;
- (d) applying quaternary treatment in accordance with Article 8 to discharges of urban wastewater from agglomerations with a p.e. of less than 10 000;
- (e) establishing integrated urban wastewater management plans in accordance with Article 5 for agglomerations below 10 000 p.e. and adoption of measures referred to in Annex V;
- (f) applying more stringent requirements for the treatment of collected urban wastewaters than the requirements set out in Annex 1, part B.

3. The identification of the risks carried out in accordance with paragraph 1 of this Article shall be reviewed every ~~5~~-six years. A summary of the identified risks accompanied with a description of the measures adopted in accordance with paragraph 2 of this Article shall be included in the national implementation programmes referred to in Article 23 and communicated to the Commission on request .

Article 21 - Monitoring

1. Member States shall ensure that competent authorities monitor:

- (a) discharges from urban wastewater treatment plants in order to verify compliance with the requirements of Part B of Annex I in accordance with the methods for monitoring and evaluation of results laid down in Part D of Annex I; this monitoring shall include loads and concentrations of the parameters listed in Part B of Annex I;
- (b) amounts, composition and destination of sludge;
- (c) the destination of the treated urban wastewater including the share of reused water;
- (d) the greenhouse gases produced and the energy used and produced by urban wastewater treatment plants of above 10 000 p.e.

2. For all agglomerations of 10 000 p.e. and above, Member States shall ensure that competent authorities monitor the concentration and loads of pollutants from storm water overflows and urban runoff discharged into water bodies .

3. For all agglomerations of above 10 000 p.e., Member States shall monitor, at the inlets and outlets of urban wastewater treatment plants, the concentration and loads in the urban wastewater of the following elements:

(a) pollutants listed in:

(i) Annexes VIII and X to Directive 2000/60/EC, the Annex to Directive 2008/105/EC, Annex I to Directive 2006/118/EC and Part B of Annex II to Directive 2006/118/EC;

(ii) the Annex to Decision 2455/2001/EC of the European Parliament and of the Council ;

(iii) Annex II to Regulation (EC) No 166/2006 of the European Parliament and of the Council ;

(iv) Annexes I and II to Directive 86/278/EEC.

(b) parameters listed in Part B of Annex III to Directive (EU) 2020/2184, where urban wastewater is discharged in a catchment area referred to in Article 8 of that Directive;

(c) the presence of micro-plastics.

For all agglomerations of above 10 000 p.e., Member States shall monitor the presence of micro-plastics in the sludge.

The monitoring referred to in the first and second subparagraphs shall be carried out with the following frequencies:

(a) at least two samples per year, with maximum 6 months between the samples, for agglomerations of 100 000 p.e. and more;

(b) at least one sample every 2 years for agglomerations of between 10 000 p.e. and 100 000 p.e.

The Commission is empowered to **adopt implementing acts** in accordance with the procedure referred to in Article 28 to ensure a uniform application of this Directive by establishing a methodology for measuring micro-plastics in urban wastewater and sludge. The Commission will require the active participation of MS during the elaboration of these delegated acts.

ANNEX 1. REQUIREMENTS FOR URBAN WASTEWATER

B. DISCHARGE FROM URBAN WASTEWATER TREATMENT PLANTS TO RECEIVING WATERS

1. Wastewater treatment plants shall be designed or modified so that representative samples of the incoming wastewater and of treated effluent can be obtained before discharge to receiving waters.
2. Discharges from urban wastewater treatment plants subject to treatment in accordance with Articles 6, 7 and 8 shall meet the requirements shown in Table 1.
3. Discharges from urban wastewater treatment plants referred to in paragraph 1 and 3 of Article 7 and in Article 8 in accordance with those Articles shall, in addition to the requirements referred to in point 2, meet the requirements shown in Table 2 of this Annex.
4. Discharges from urban wastewater treatment referred to in Article 8(1) and included in the list referred to in Article 8(2) shall, in addition to the requirements referred to in points 2 and 3, meet the requirements set out in Table 3.
5. Authorisations for discharges from urban wastewater treatment plants using plastic biomedica shall include an obligation to permanently monitor and prevent all unintentional biomedica release in the environment.
6. More stringent requirements than those set out in Tables 1, 2 and 3 shall be applied where necessary to ensure that the receiving waters fulfil the requirements laid down in Directives 2000/60/EC, 2008/56/EC, 2008/105/EC and 2006/7/EC.
7. The points of discharge of urban wastewater shall be chosen, as far as possible, so as to minimize the effects on receiving waters.

D. METHODS FOR MONITORING AND EVALUATION OF RESULTS

Table 2:

Requirements for Tertiary treatment of discharges from urban wastewater treatment plants referred to in Article 7(1) and (3). One or both parameters may be applied depending on the local situation. The values for concentration or for the percentage of reduction shall apply.

Parameters	Concentration	Minimum percentage reduction ¹ (See Note 1)	Reference method of measurement
Total phosphorus	0,5 mg/L	90	Molecular absorption spectrophotometry
Total nitrogen	6 mg/L	85	Molecular absorption spectrophotometry

Note 1: Natural nitrogen retention shall not be taken into account in the calculation of the minimum percentage reduction

Table 3: Requirements for quaternary treatment of discharges from urban wastewater treatment plants referred to in Article 8(1) and (3).

Indicators Categories	Minimum percentage of removal
<u>Sa) Substances that can pollute water even at low concentrations after being treated with a secondary treatment or more stringent one (see Note 1)</u> <u>b) Other substances...</u>	80 % <u>for Category a) when concentration is above xx</u> (see Note 2) <u>Xx % for Category b)</u>

¹ Reduction in relation to the load of the influent.

Note 1: The concentration of the organic substances referred to in points (a) and (b) shall be measured.

(a) Category 1 (substances that can be very easily treated):

- (i) Amisulprid (CAS No 71675-85-9),
- (ii) Carbamazepine (CAS No 298-46-4),
- (iii) Citalopram (CAS No 59729-33-8),
- (iv) Clarithromycin (CAS No 81103-11-9),
- (v) Diclofenac (CAS No 15307-86-5),
- (vi)— Hydrochlorothiazide (CAS No 58-93-5),
- (vii) Metoprolol (CAS No 37350-58-6),
- (viii)— Venlafaxine (CAS No 93413-69-5);

(b) Category 2 (substances that can be easily disposed of):

- (i) Benzotriazole (CAS No 95-14-7),
- (ii) Candesartan (CAS No 139481-59-7),
- (iii) Irbesartan (CAS No 138402-11-6),
- (iv) mixture of 4-Methylbenzotriazole (CAS No 29878-31-7) and 6-methyl- benzotriazole (CAS No 136-85-6).

Note 2: The percentage of removal shall be calculated for at least six substances. The number of substances in category 1 shall be twice the number of substances in category 2. If less than six substances can be measured in sufficient concentration, the competent authority shall designate other substances to calculate the minimum percentage of removal when it is necessary. The average of the percentages of removal of all substances used in the calculation shall be used in order to assess whether the required 80 % minimum percentage of removal has been reached.

ANNEX 2. AREAS SENSITIVE TO EUTROPHICATION

1. Areas located in the catchments of the Baltic Sea, the Black Sea, parts of the North Sea identified as sensitive to eutrophication under Directive 2008/56/EC and parts of the Adriatic Sea identified as sensitive to eutrophication under Directive 2008/56/EC;

2. Natural freshwater lakes, other freshwater bodies, estuaries and coastal waters which are found to be eutrophic or which in the near future may become eutrophic if protective action is not taken.

The following elements shall be taken into account when considering which nutrient should be reduced by further treatment:

(a) lakes and streams reaching lakes/reservoirs/closed bays which are found to have a poor water exchange, whereby accumulation may take place. In these areas, the removal of phosphorus should be included unless it can be demonstrated that the removal will have no effect on the level of eutrophication. Where discharges from ~~large~~ agglomerations of 50,000 p.e. and above are made, the removal of nitrogen may also be considered;

(b) estuaries, bays and other coastal waters which are found to have a poor water exchange, or which receive large quantities of nutrients. Discharges from small agglomerations are usually of minor importance in those areas, but for large agglomerations, the removal of phosphorus and/or nitrogen should be included unless it can be demonstrated that the removal will have no effect on the level of eutrophication;

3. Surface freshwaters intended for the abstraction of drinking water which could contain more than the concentration of nitrate laid down under the relevant provisions of Directive (EU) 2020/2184 if protective action is not taken;

4. Areas where further treatment than that prescribed in Article 7 of this Directive is necessary to comply with other Union acts in the environmental field, including in particular water bodies covered by Directive 2000/60/EC which are at risk of not maintaining or achieving good ecological status or potential.

5. Any other areas found by the Member States to be sensitive to eutrophication.

*ANNEX 3. LIST OF PRODUCTS COVERED BY EXTENDED PRODUCER
RESPONSIBILITY*

1. Medicinal products for human use falling within the scope of Directive 2001/83/EC of the European Parliament and of the Council².
2. Cosmetic products falling within the scope of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products³.

² 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. 67–128).

³ Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59–209).

LITHUANIA

Position

Article 7

The new phosphorus and nitrogen standards would drive significant additional investment in wastewater treatment infrastructure (many existing wastewater treatment plants will not be able to reach these value limits). Too short deadlines are foreseen. Implementation will require more time and additional funds for new investments (reconstruction of the WWTP is necessary) especially for treatment plants which were reconstructed, upgraded few years ago. There is no balance between requirements for phosphorus/nitrogen and a desire to reduce energy consumption. Financial resources and realistic deadlines for implementation should be foreseen.

Article 8

The proposal for a quaternary treatment to address to issue on micro-pollutants is considered quite challenging. There is lack of information on how financial contribution of producers (including importers) and the subsequent use of these finances will work in practice. New and better technologies should be financed. The deadlines for the implementation of the quaternary treatment (starting from the end of 2030) are too short (because financing mechanism should be first introduced (producers responsibility mechanism still has many uncertainties how to implement), then projects should be prepared, public procurement procedures and then the relevant treatment technologies should be adapted).

Article 9

Extended producer responsibility (EPR) applies only to the pharma and personal care products industries (with the aim to contribute to the development of better treatment capacity). We believe that the same/equal conditions should be ensured in all Member States, and therefore the implementation of this principle should not be delegated to the MS individually (leaving MS to deal with). The principle of extended producer responsibility would be implemented more effectively at EU level. There is also indistinctness on how these articles applies to producers that are not established in the EU.

Annex 1, Part D, Paragraph 3

The proposal provides an excessive increase of the minimum annual number of samples. For example (50000-99999 p.e.), instead of 2 samples per month, it is proposed to take it once a week, and for micro-pollutants even twice a week. This will affect the increase in administrative and financial burdens.

Article 21

We want to emphasize the high amount and complexity of proposed monitoring.

Article 21(2): The proposed monitoring of storm water overflows and urban runoff is very challenging from the technological point of view (It seems challenging to monitor the concentration and loads of pollutants from storm water overflows and urban runoff).

The requirements laid down in Article 21(3) (for agglomerations from 10 000 p.e.) provides obligation for the MS to investigate a very wide list of substances in waste water before and after treatment (cover a very wide range of different substances). Subject to the requirements set out in (1) and (2) of Article 21 such additional monitoring of the parameters referred to in points (a) and (b) of Article 21(3) would impose a significant effect on the administrative and financial burdens increase. Important to mention that frequent monitoring of some parameters before treatment (including pharmaceuticals and others which originates from domestic sector) will not give many benefits. We agree that it is important to know what pollutants are in urban wastewater, but too frequent monitoring will not help to reduce these pollutants, requirements for supply to the market of certain products needs to be revised.

THE NETHERLANDS

Questions and comments on the articles 7, 8, 9, 13, 18 and 21, related definitions and annexes on the revision of the UWWTD

The Netherlands thanks the Swedish Presidency for the opportunity for written comments and questions.

Article 7 Tertiary treatment

We read article 7, paragraph 5, where a reference is made to paragraph 3 and 4, in a way that this also refers to paragraph 1 where a reference to paragraph 4 is mentioned as well. In other words, uwwtp's ≥ 100.000 p.e. can also be part of derogation. Is this correct?

The objectives mentioned in Annex 1, table 1 are low concentrations P-tot and N-tot. This could lead to using less sustainable purification techniques, e.g. the use of extra methanol (for nitrogen removal) and more iron salts (for phosphorus removal, where we see currently shortages).

In article 7, paragraph 1 is spoken about (the capacity of) uwwtp's, where in paragraph 3 (the size of) agglomerations are mentioned. Is this distinction made deliberately? Can the Commission give an explanation of the difference?

Which objectives/parametric values are applied for uwwtp's (or in terms of the proposal for agglomerations) of between 10.000 p.e. and 100.000 p.e. which are not subject of the list mentioned in paragraph 2? No objectives, the objectives from the current directive (with is going to be repealed) or other objectives?

We read that for uwwtp's/agglomeration of 1.000/2.000 p.e. – 10.000 p.e. no tertiary treatment is foreseen except for situations in article 18 paragraph 1. Is this correct?

In the title of Annex 1, table 2 is mentioned that one or both parameters (N and/or P) may be applied depending on the local situation. Can the Commission give some explanation on this?

What is the meaning of article 7, paragraph 6? What is the scope of such a catchment area according to the EC if a Member State has designated its entire territory as a sensitive area for eutrophication?

Article 7, paragraph 7: it seems that the updates and deadlines are not in line which the requirement laid down in paragraph 3. For example: the list should be available in 2025 (paragraph 2) + first update within 5 years (paragraph 2) is 2030 + fulfil the requirements within 7 years (paragraph 7) is 2037. This is earlier than 2040 (paragraph 3). In general, the deadlines are strict, we would like to come back to this at a later stage.

Article 8 Quarternary treatment

Article 8, paragraph 2: what is meant by risk assessment? In the Netherlands we performed a hot spot analysis based on a sum parameter of substances in which the relative influence of uwwtp discharges on the surface water quality is determined. This should also be part of the definition of risk assessment. In the first subparagraph is spoken about risk assessment, in the second subparagraph about the absence of risk. Why this change of evidence?

Paragraph 2, sub (c), lakes, and (d), rivers: why is this mentioned separately? What is meant with 'other streams where the dilution ration is below 10': are these WFD water bodies? Why has the EC chosen for an annual dilution ration of 10?

Article 8, paragraph 3: when does the Commission provide the method to be used for a risk assessment; it doesn't have a deadline. It should be at least by the end of 2025 in order to avoid conflicts with the implementation of other deadlines such as paragraph 1. Besides this, it is important that there will be a minimum harmonization on European level because all member states operating on the same level playing field. Several member states already implement quaternary treatment.

Annex 1, table 3: why is chosen for the method of CH and not for the methods used in some EU member states? In the Netherlands we use e.g. 70% as minimum percentage of removal. Due to this percentage relative cheap treatment techniques can be used at more uwwtp's than it would be the case by using more expensive treatment techniques. How is the percentage calculated? As percentage in i] effluent from additional treatment technology or ii] discharge uwwtp in relation to iii] raw sewage or iv] regular effluent uwwtp. Usually the additional quaternary treatment technique will not be dimensioned on the annual amount of urban waste water.

And why is not chosen for common indicators which are used in EU-member states already for example in DE (BW, NRW), NL and probably other EU-member states?

Why is chosen for two categories of substances (category 1 and 2)? And substances should be chosen which are found in urban waste water regularly. For example the substances Amisulprid and Clarithromycin are deleted as indicator in the Netherlands since they cannot fulfil the criterion "in sufficient way found in influent and effluent (in combination with reporting limit of the monitoring analysis)". Therefore it is not possible to calculate the percentage of removal. Citalopram is found in effluent of uwwtp's in the Netherlands irregularly. Why is chosen for 6-methyl-benzotriazole? In DE, CH and NL 5-methyl-benzotriazole (CAS No 136-85-62) is used together with 4-methyl-benzotriazole.

Article 8, paragraph 5 does not correspond to (d) of paragraph 4, part D of Annex 1. In the last text, all samples must meet the 80% removal efficiency; in paragraph 5, article 8 failures are possible.

In paragraph 6, the EC announces that it will come up with a method for monitoring and sampling with regard to the 80% reduction in micros by 31 Dec 2030 at the latest. This date is too late because on the same date 50% of uwwtp's > 100.000 p.e. must be equipped with a 4th step. Sampling/monitoring method can have a significant impact on the dimensioning of the 4th step.

Annex 1, part D, paragraph 2: NL research shows that relatively little rain in the supply area in combination with the supply pattern of sewage water (type of sewer system) at uwwtp can have a major influence on determining the intended removal efficiency over the total uwwtp (effluent 4th step compared to influent). Extending to 48hrs time- or volume-proportional sampling does not solve this problem

Article 9 Extended producer responsibility

In general we support the system of extended producer responsibility. There are a lot of examples from other legislation where there is already an EPR in place. This is a new approach for waste water. We do however have some concerns. We think more guidance from the Commission is needed to come to a comparable European approach.

Most pharmaceuticals in the environment are from generic medicines (ibuprofen, diclofenac, carbamazepine) where profit margins are low so on these producers the EPR can have more effects compared to other producers and could influence the availability and affordability of medicines. It could lead to a rise in costs for patients.

Furthermore, we also believe that the assessment of toxicity of products should be done on EU-level or on an agreed assessment method in order to establish an equal level playing field. For the older medicines (before 2006 when an Environmental Risk Assessment (ERA) was made obligatory) information on toxicity is not always available.

A suggestion could be to have in a later stage someone from the Single Use Plastics directive give a presentation in one of the Council Working Group meetings as the EPR in that directive has been used as an example in this directive.

Article 13 Local climatic conditions

No comments.

Article 18 Risk assessment and management

Article 18, paragraph 1: In principle this identification of risks is already made with respect to the EU Directives and Regulations. This seems to be double. Risk assessment is already European water quality policy based on the directives mentioned e.g. the WFD. Effect based screening methods could be considered.

Paragraph 1 (c): how is the identification of risks of *good ecological status* of a water body related to article 18, paragraph 2 (f), in which is referred to annex 1, part B, number 6, where is spoken about the WFD in general (including *chemical status*) and the Priority substances directive (*chemical status*)?

Article 18, paragraph 2: the Netherlands would like to add as a first measure: a) "source control measures" as prevention at source is always first.

Article 18, paragraph 3: referring to our comment by paragraph 1 the Netherlands suggest changing the review from 5 years into 6 years, so that it is in line with the cycle of the WFD.

Article 21 Monitoring

Article 21, paragraph 1 (a): concerning Annex 1, part D, we would like to stress that the minimum annual number of samples mentioned in number 3 is far beyond several frameworks. It is not executable, it is expensive, it is statistical not defensible and in the end it is not usable.

The Netherlands suggests the following frequency for the following size of uwwtp's:

1.000 – 9.999 p.e.: 1 per month (according to the proposal);
10.000 – 49.999 p.e.: two per month (according to the proposal);
50.000 p.e. or over: once a week (according to the current situation).

And these frequencies should be applied for the parameters mentioned in table 1, 2 and 3. This makes it for the operators of uwwtp's clearer and easier.

Article 21, paragraph 1 (d): in the explanatory note of the Commission of 21 December 2022 it is mentioned that for article 11(Energy neutrality of uwwtp's) the neutrality target applies at national level and not at individual plant level. We propose to do the same here as well, because there is no information at uwwtp level known, monitoring method is still in development and there are many variations during the year. We plea for a guidance concerning monitoring this topic.

Article 21, paragraph 2: this is not necessary, because it is already part of the risk assessment mentioned in article 18, so this paragraph should be deleted. As it is formulated, it is not executive. In the Netherlands calculation of risks from storm water overflows or urban runoff is done on forehand by preparing municipal collecting system plans where (avoiding) risks are already taken into account in the design of collections systems. This is done by e.g. modelling. If this paragraph will not be deleted, then the Netherlands propose that in the definition of monitoring also modelling is understood.

Article 21, paragraph 3: this paragraph is not realistic and beyond normal monitoring frameworks as well. What is the reason for this high intensity of monitoring? The Netherlands suggests to add in the sentence before (a) that member states shall monitor [...] in the waste water of e.g. the following elements. Secondly, to get a picture of the composition of discharged waste water in order to protect the aquatic ecology of surface waters (see article 18 as well) monitoring of the effluent is in a first stage in principle sufficient. What is the reason for the Commission to monitor the composition of the influent as well?

Paragraph 3 (a) (ii): this reference isn't relevant anymore. This is an old decision establishing the first list of priority substances in 2001. The EQS directive (2008/105/EC) is now the relevant one.

Paragraph 3 (c): monitoring of micro-plastics in influent isn't useful; most of the micro-plastics will get in the sludge.

Paragraph 3: it is not clear for which part of this article (first and second subparagraphs) the requirements for the monitoring frequencies apply (in other words to which sentences is referred to with the first and second subparagraph). The frequency can be reduced in (a) by monitoring once per year. In the Netherlands there are around 50 uwwtp's > 100.000 p.e., so you will have 50 samples a year. And the frequency can be reduced by deleting (b); this requirement doesn't give you more information in comparison with number (a).

AUSTRIA

WPE Meeting 27 January 2023

Council Doc. 14223/22 +ADD 1 +ADD 2 +ADD3 [COM(2022) 541 final]

Urban Waste Water Directive

COMMENTS

Hereafter, please find Austria's response to the request for comments and feedback requested in steering note WK 614/2023 INIT. **Austria is maintaining its scrutiny reservation on the entire file.** Hereafter, please find our preliminary comments.

TOPIC TERTIARY TREATMENT (Art. 7, Art. 2 (12, 23), Annex 1B + 1D, Annex 2

- **Art. 7 (5) and Annex 1D, Table 2:** We advocate to reconsider the requirements with respect to nitrogen removal.
Studying the impact assessment, we have found that the **Nitrogen (N) removal** rates in the proposal (85 % by 2040 both in Art. 7 (5) and Annex 1D, Table 2) have been based on best practice examples in Germany (*DWA, 2020: 33th performance comparison report of UWWTPs*) which are predominantly served by separate sewer systems. Raw wastewater from separate sewer systems is systematically more concentrated than raw wastewater from combined sewer systems. Combined sewage becomes diluted whenever there is rainfall, and will be even more diluted, if we have the ambition to properly treat as much combined sewage as possible during rainfall in order to avoid pollution from combined sewer overflows (cf. Art. 5 and Annex 5). The more diluted the wastewater, the more difficult it is to reach high N removal rates. Hence, performance data from UWWTPs served by separate sewer system are no solid basis to derive ELVs for UWWTPs served by combined sewer systems. For reasons of technology, we also think that for UWWTPs operating with separate aerobic sludge stabilisation and UWWTPs operating two-stage activated sludge systems the suggested N removal rates are beyond reach without dosage of external carbon sources.
As for the **concentration-ELV** of 6 mg N/L we also miss a sound basis in the Impact Assessment. None of the data presented in the above-mentioned German report come close to 6 mg/L. Data previously provided by Austria to the COM show that 70 % of Austrian UWWTPs > 50.000 p.e. would fail this ELV.
- **Annex 1D, Table 2:** We are opposed to the deletion of footnotes 9 and 10. It is a fact that nitrification is very sensitive with respect to temperature, and we do have an issue with N removal in case of low temperatures. Could COM elaborate on which basis these footnotes have been deleted?

- **Art. 2 (12) (Definition of tertiary treatment):** By transferring nitrogen and phosphorus to primary and secondary sludge, both primary and secondary treatment remove a certain share of nitrogen and phosphorus from the urban wastewaters, though to a lesser extent than tertiary treatment. In order to avoid any misunderstanding, we suggest to change the definition to: *‘tertiary treatment’ means treatment of urban wastewater with enhanced removal of nitrogen and phosphorus from the urban wastewaters (typically including biological nitrification and denitrification as well as phosphorus removal by precipitation and/or enhanced biological phosphorus uptake)*
- **Art. 7 (4) + Annex 1D (4c):** There is a **contradiction** between “The maximum permitted number of samples which fail to conform to the parametric values of table 2 of Part B of Annex I is set out in table 4 of part D of Annex I” (Art. 7 (4)) and “for those parameters specified in Table 2 the annual mean of the samples for each parameter shall be conform to the relevant parametric values set out in that table” (Annex 1D (4c)).
- **Art. 7 (1, 2, 3):** Throughout the proposal, we find requirements for UWWTPs ≥ 100.000 p.e. to be applied in any case, and a risk assessment for agglomerations between 10.000 and 100.000 p.e. We have concerns as to whether there might not be a formal loophole here. For further details, please refer to our statement on Art. 8.
- **Art. 7 (4):** We think that it is paramount to ensure that the revised UWWTD offers planning and investment security. Therefore, we are very opposed to any delegation of competences from the MS to the COM when it comes to amending Parts B and D of Annex 1, in particular regarding Annex 1D, Table 3.
We would also want to point out that it is unclear to which “second subparagraph” the text in Art. 8 (5, 2nd subparagraph) refers.
- **Annex 1D, Table 3:** We would highly appreciate an explanation of Note 1 regarding the term “natural nitrogen retention”.
- **Annex 1D (3) - sampling frequencies:** Due to the limited time available for the preparation of comments, we are not going into more detail on the subject for the time being.

TOPIC RISK ASSESSMENT AND MANAGEMENT (Art. 18)

So far, the UWWTP has been a directive defining minimum requirements according to the precautionary principle. There were some risk-based elements – e.g. the areas sensitive to eutrophication, or some distinction between requirements for larger and for smaller UWWTPs. We fundamentally support that these risk-based approaches considered natural sensitivities, but did not focus on specific downstream uses. Coming back to the proposal, we fear that the massive expansion of risk assessment in Art. 18 may significantly increase the administrative burden. At the same time, we see none to very little added value in performing risk assessments from 2 sides - namely from the side of the emitter and from the side of the receiving environmental medium.

- **Art. 18 (1):** We have an issue with the interaction of Art. 18 (1) and the WFD 2000/60/EC. What is the added value of Art. 18 (1) with respect to Art. 5 and the Identification of Pressures according to Annex II of the WFD? We raise similar questions for the interaction with Art. 8 of the DWD (EU) 2020/2184 and Annex III of the BWD (EU) 2006/7/EC.

TOPIC MONITORING (Art. 21)

In connection with the monitoring obligations, clarifications are required, particularly regarding the choice of parameters, methodology and scope.

- **Art. 21 (1):** Why has “Member States shall ensure that appropriate bodies...” been changed to “Member States shall ensure that competent authorities...”?
- **Art. 21 (1d):** Coming back to our questions in WK 16671/2022 INIT: How are greenhouse gases to be monitored?
- **Art. 21 (2):**
 - Why do the competent authorities have to monitor storm water overflows and urban runoff? Shouldn't it be the operators of the respective sewer systems?
 - In connection with Art. 5 and Annex 5, we have already started the discussion that it is hardly possible to monitor the concentrations and loads by measuring them individually. For a practical monitoring of volumes and loads from **storm water** overflows we need a combination of modelling and measuring, using also substitute parameters. We believe that this possibility must be included in the text of the directive.
 - Concerning the monitoring of urban runoff (from separate sewers) we see a huge challenge and would appreciate an exchange of best practice examples.
 - We miss a reference to what is the purpose of the monitoring acc. to Art. 21 (2). Is it the basis for assessing Art. 5 (2b)?
- **Art 21 (3):**
 - In this Paragraph, 5 Directives, 1 Decision and 1 Regulation are listed, making a total of approx. 160 substances and parameters. MS shall monitor all of these at the inlets and at the outlets. Agglomerations of ≥ 100.000 p.e. must be tested at least twice a year and agglomerations of between 10.000 p.e. and 100.000 p.e. at least ones every two years. Such implementation will lead to high costs. From our point of view, MS should first identify those pollutants, which are relevant in the outlet of UWWTPs, and then concentrate on these. Hence, we suggest the following amendment in the text: “For all agglomerations of above 10.000 p.e., Member States shall monitor, at the inlets and outlets of urban wastewater treatment plants, the concentration and load in the urban wastewater of the following elements, if relevant:”
 - We miss a reference to what is the purpose of the monitoring acc. to Art. 21 (3). Is it the basis of the risk assessment in Art. 18?

TOPIC QUATERNARY TREATMENT (Art. 8, Art. 2 (13, 16, 17), Annex 1)
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From a cost-benefit perspective, a risk-based approach for quaternary treatment that is consistent with the water framework directive makes sense. In this context, could COM please explain on which grounds the limit between the precautionary principle (Art. 8 (1)) and the risk-based approach (Art. 8 (2,4)) has been set at 100.000 p.e.?

It is in the nature of things that the removal of pollutants from environmental media with technical measures requires energy. This results in interactions between demands on wastewater treatment (Art. 8) and demands on energy savings (Art. 11). As part of the previous exchange on article 1 in the WPE meeting of 13th January 2023, several MS have expressed their views that the main objective of the UWWTD should clearly be the collection, treatment, and discharge of urban wastewater. The wording of article 1 emphasizes this key position of wastewater treatment. Regarding Art. 8 and Art. 11 we should come up with well-balanced and workable demands – a point to come back to point when we will discuss Article 11. For the current discussion on Art. 8, we note that the proposal uses the same lower p.e. (10.000 p.e.) for agglomerations both in Art. 8 (4) and in Art. 11. Therefore, maybe one way to better balance conflicting claims could be to choose the lower p.e. according to the size of an UWWTP from which anaerobic sludge treatment becomes cost-effective.

- **Art. 8 + Annex 1D, Table 3:** For cost-efficiency reasons, we believe that it is **paramount to specify** that the required minimum percentage of removal (= 80 %) of substances that can pollute water even at low concentrations applies to the **dry weather conditions**.
- **Art. 8 (1, 4, 5):** We think that the **deadlines** for implementing the fourth treatment (2030/2035 for UWWTPs $\geq$ 100.000 p.e., 2035/2040 for agglomerations between 10.000 and 100.000 p.e.) **need to be reconsidered**. To give an example:
In 2030, 50 % of UWWTPs $\geq$ 100.000 p.e. would have to operate quaternary treatment. If we assume that the revised UWWTD will - at best - be adopted in 2024. Then, there would be 2 years of implementation in national law $\rightarrow$ 2026. This would leave only 4 years for planning, obtaining the permit, constructing and putting in operation the quaternary treatment. In addition, these steps would require funding. Within the 4 years available, first of all the EPR system would need to become operative, leaving even less than 4 years for the other steps.
- **Art. 8 (1):** As already mentioned in WK 227/2023 INIT and repeated in the WPE meeting on 13th January, 2023, we need a **definition of 'treating a load'**, in order to achieve a uniform implementation. As a reminder, AT proposed to use the definition of Art. 6 (4), while moving it to Art. 2.
- **Art. 8 (2):** In order to achieve better coherence with the Water Framework Directive, an **update interval of 6 years** instead of 5 years should be chosen.

- **Art. 8 (3):** We take a critical view of the planned **Implementing Act** on the method to be used for the risk assessment and would rather recommend implementation guidelines. At least, an Implementing Act should be bound to a deadline well in advance of the deadline in Art. 8 (2).
- **Art. 8 (5) + Annex 1D (4d):** There is a **contradiction** between *“The maximum permitted number of samples which fail to conform to the parametric values of table 3 of Part B of Annex I is set out in table 4 of part D of Annex I”* (Art. 8 (5)) and *“for the parameters specified in Table 3, each sample shall be conform to the parametric values set out in that table”* (Annex 1D (4d)).
- **Art. 8 (1, 2, 4, 5):** Throughout the proposal, we find requirements for **UWWTPs $\geq$ 100.000 p.e.** to be applied in any case, and a risk assessment for **agglomerations between 10.000 and 100.000 p.e.** We have concerns as to whether there might not be a **formal loophole** here. To give an example:
A fictitious agglomeration with 200.000 p.e. is served by 3 UWWTPs, treating a load of 110.000 p.e. (UWWTP 1), 30.000 p.e. (UWWTP 2) and 60.000 p.e. (UWWTP 3). This agglomeration is within an area that represents a risk for human health or the environment acc. to Art. 8 (2). UWWTP 1 would require quaternary treatment acc. to Art. 8 (1). However, UWWTP 2 and 3 seem to be covered neither by Art. 8 (1) (as they treat < 100.000 p.e., each) nor by Art. 8 (4) (as the fictitious agglomeration has 200.000 p.e. and is therefore beyond the range 10.000 and 100.000 p.e.).
- **Art. 8 (5):** Same comment as with respect to Art. 7 (4): We think that it is paramount to ensure that the revised UWWTD offers planning and investment security. Therefore, we are very opposed to any delegation of competences from the MS to the COM when it comes to amending Parts B and D of Annex 1, in particular regarding Annex 1D, Table 3. Also, it is unclear to which “second subparagraph” the text in Art. 8 (5, 2nd subparagraph) refers.
- **Art. 2(16):** We are still checking whether the reference to the CLP Regulation is straightforward.
- **Impact Assessment:** For AT, the EC estimates annual costs of 37,6 Mio EUR by 2040 for advanced treatment (cf. table A7.8 *“detailed costs of the preferred option per Member State”*). This figure seems to be greatly underestimated. If you only look at Austrian UWWTPs $\geq$ 100.000 p.e., they treat approx. 11,6 Mio. p.e. Assuming an optimistic 7 EUR/(EW.a) for quaternary treatment of large UWWTPs, we come up with 81 Mio EUR just for UWWTPs $\geq$ 100.000 p.e. which is already more than double the annual costs estimated in the IA for UWWTPs $\geq$ 100.000 p.e. + agglomerations between 10.000 – 100.000 p.e.
- **Annex 1D (3) - sampling frequencies:** Due to the limited time available for the preparation of comments, we are not going into more detail on the subject for the time being.

Due to the limited time available for the preparation of comments, we are not going into detail on the subject for the time being. Hereafter, please find some questions.

- **Art. 2 Definitions (18):** ‘producer’ means any manufacturer, importer or distributor that on a professional basis places products on the market of a Member State. We would appreciate it if the COM could explain why distributors are also called upon to contribute to the EPR development. Is this a way to make importers outside of the EU and online sellers outside of the EU contribute to the EPR?
 - **Art. 9 (1, 2):** According to our understanding, one of the initial steps is to identify the EU-based producers of pharmaceutical and cosmetic products. Wouldn’t it significantly decrease the overall administrative burden to create a register with all EU producers of pharmaceutical and cosmetic products at European level instead of breaking this task down to each single MS? After all, the exoneration of products in Art. 9 (2a) is based on the European market (as explained in WK 17933/2022 INIT).
 - **Art. 9 (4a (ii)):** How to calculate the hazardousness of a product reaching waste water? If the UWWTD does not clearly show the calculation method (e.g. as described in the report “Feasibility of an EPR system for micro-pollutants (2022)”), wouldn’t this lead to different calculation methods among EU MS, while most producers bring their products on the market in several or all of them?
 - **Annex 3:** Why just these two sectors?
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FINLAND

Comments and Questions to Articles 2, 7-9, 13, 21 and the related annexes in the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning urban wastewater treatment

Tertiary treatment, Art. 7:

We have a remark for the sampling frequencies concerning tertiary treatment. In Annex 1, part D, paragraph 3, it is stated that:

For plants between 10 000 to 100 000 p.e., the sample amount will double compared to status quo and for plants more than 100 000 p.e. the sample amount would increase to fifteenfold.

Even one sample per day for plants with more than 100 000 p.e. is not practical, because large plants are most stable in their operation. This would increase administrative burden remarkably, for example the analytical costs. What are the advantages to increase the sampling frequency this much in big wastewater treatment plants?

Annex 1, part D, Table 2 And Art 13 Local Climate conditions

Regarding the removal requirements of nitrogen the footnote concerning temperature has not been added to the proposal.

Footnote: "However, the requirements for nitrogen may be checked using daily averages when it is proved, in accordance with Annex I, paragraph D.1, that the same level of protection is obtained. In this case, the daily average must not exceed 20 mg/l of total nitrogen for all the samples when the temperature from the effluent in the biological reactor is superior or equal to 12 °C. The conditions concerning temperature could be replaced by a limitation on the time of operation to take account of regional climatic conditions."

The conditions concerning temperature are very crucial in nitrogen removal. The growth of certain bacteria taking part in the nitrogen removal is very much dependent on temperature and this dependence is not linear. The retention time for bacteria to grow increases dramatically as temperature falls below 12 °C.

In the current directive 91/271/EEC the article 10 states: *Member States shall ensure that the urban waste water treatment plants built to comply with the requirements of Articles 4, 5, 6 and 7 are designed, constructed, operated and maintained to ensure sufficient performance under all normal local climatic conditions. When designing the plants, seasonal variations of the load shall be taken into account.*

Regarding article 10, current directive has above mentioned footnote concerning temperature in Annex 1, part D, Table 2. In the proposal, the content of the article 13 is very much like former article 10. So what is now the reason for not adding the same footnote in the proposal Article 13?

If the footnote is not included in Annex 1, part D, Table 2, it requires us to reconsider the design, construction, and operation of the treatment plants in Finland.

Also in Annex 1, part D, Table 2 there is added a Note 1. *Natural nitrogen retention shall not be taken into account in the calculation of the minimum percentage reduction.* What is the reason for the addition of the Note 1?

Monitoring, Art. 21

Article 21(2) For all agglomerations of 10 000 p.e. and above, Member States shall ensure that competent authorities monitor the concentration and loads of pollutants from storm water overflows and urban runoff discharged into water bodies.

If monitoring in this case means sampling and analysis, it is practically impossible because it would require unreasonably large human resources and laboratory capacity. Instead, could it be possible to estimate the concentrations and loads according to the smart measurements in to the collection systems.

Quaternary treatment, Article 8

We have a remark for the sampling frequencies concerning quaternary treatment. Annex 1, part D, paragraph 3, states:

- For plants between 10 000 to 49 999 p.e., one sample per month
- For plants between 50 000 to 99 999 p.e., two samples per week
- For plants more than 100 000 p.e., two samples per week

From “one sample per month” to “two samples per week” the sampling increases eightfold. It seems to be disproportionate.

The timetable of the requirements of Art. 8

The timetable is not possible. If all European treatment plants over 100 000 p.e. and most of the plants over 10 000 p.e. start to purchase quaternary treatment units at the same time, the market will be distorted.

Definition of micro-pollutant, Article 2

Is the definition of micro-pollutant coordinated with the definition of ‘substance’ of the REACH regulation? It has emerged that the term micro-pollutant is unknown for the pharmaceutical and personal care product industries.

Furthermore, does the expression “*can be considered hazardous to human health or the environment based on any of the criteria set out in Part 3 and Part 4 of Annex I to Regulation EC*” mean that the substance has been classified as hazardous under the CLP Regulation in a relevant hazard class? How about pharmaceutical products that are not classified as hazardous in the same way as chemicals? How are their risks defined?

Annex 1 (Table 3)

We have scrutiny reservation on this.

Extended producer responsibility, Article 9

This is really uncharted territory which requires further consideration. The examples from the EPR systems of the waste directive are not comparable because in those EPR systems direct funding from the EPR organisations to the treatment plants takes place. Some similarities may exist with the EPR systems of the SUP directive regarding preventing and cleaning of littering but those systems are not fully operative yet and there is not much experience on their implementation. Further clarification would be needed on numerous detailed questions, in order to facilitate harmonized implementation and level playing field in all MS. For example:

- How is “quaternary treatment defined” for the purpose of full cost responsibility of producers: does it refer to the cost of separate phase/installation of the treatment process, or to all phases where micropollutants are removed? In case there is a need to construct a separate installation for removing micropollutants including, for example, massive rock extraction, should all those costs be fully covered by producers?
- Who makes and how the assessment that the investments in treatment plants are cost effective and appropriate?
- How shall the producers assess “the hazardousness of the products in the wastewaters at the end of their life”, in accordance with Article 9(4)(a)(ii)?

Article 9 paragraph 2, point (b) “*the products they place on the market do not generate micro-pollutants in wastewaters at the end of their life*” seems challenging to determine – taking into account that micropollutants are likely to act differently in different treatment processes and conditions. In order to ensure harmonized implementation, the Commission Implementing Act must definitely be issued well before the EPR systems shall be operative and provide very clear and straightforward rules for exonerations.
