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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
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Subject:	Urban Wastewater Treatment Directive: WPE on 4 September 2023 - Presidency steering note

With a view to the above WPE meeting on 4 September 2023, delegations will find attached the Presidency steering note.

WORKING PARTY ON THE ENVIRONMENT (WPE) **4th September 2023**

Urban Wastewater Treatment Directive (UWWTD) (recast) – 2022/0345 (COD)

Presidency steering note

On 4th September 2023, Delegations will continue the discussion on clusters 1, 3 and 5 (see Annex I) of the UWWTD recast, during the third Working Party on Environment (WPE) of this file under the Spanish Presidency.

Based on the comments received from the Member States (MS) on the first three clusters after the WPE of 5th July, the Presidency has drafted a new text to be discussed in the next WPE on 4th September. It can be found as Annex II in this Steering Note. Recitals, definitions and annexes related to the articles of clusters 1, 3 and 5 are also included.

Additions to the last version of the text discussed in the WPE of 5th July are marked in bold underlined. Previous changes are set out in bold, while strikethrough indicates deletions (without bold and underlined). Finally, new deletions are set out strikethrough, bold and underlined.

Please consider that only relevant changes to the mentioned clusters are detailed in this steering note. A summary of the main changes are included below for further clarification.

Some recitals have been included in the compromise text to be discussed during the next WPE. They have been modified to provide greater coherence with the articles they refer to, or to include concepts that did not seem appropriate to appear in the articles.

Article 2 (definitions) is again appearing in full form in the text, in order to keep all definitions together and not to split them. However, for the definitions related to articles in clusters 2 and 4, the modifications will be presented in the next WPE, foreseen for 11th September.

Finally, a similar situation happens with **Article 23 (National Implementation Programme)**, which Presidency understands it is related to other articles and therefore is presented in this Steering Note.

Next steps:

After the meeting, the Presidency will invite delegations to submit written specific text proposals on track changes **on clusters 1, 3 and 5 no later than 11th September**. More information will be given at the meeting on next steps on the remaining clusters (2 and 4).

CLUSTER 1

Recitals 2, 5, 6, 7, 8, 11, 36 and 39; Article 1-Subject matter; Article 2-Definitions; Article 3-Collecting systems; Article 4- Individual systems; Article 5-Integrated urban wastewater management plans; Article 6 -Secondary treatment.

Article 1 (Subject matter) remains as it was in the previous versions, only a minor change has been introduced to state that the reduction of Greenhouse Gas Emissions will only be until sustainable levels.

In **Article 2 (Definitions)** some changes have been introduced in the relevant definitions, such as 'non-domestic wastewaters', 'agglomeration', 'separate sewer', 'combined sewers', 'sludge', 'micropollutants' and 'load', among others, attending MS comments.

Some of the concepts previously included in those definitions have now been moved to the related Recitals to simplify the definitions. It is the case of the "non-domestic wastewater" (article 2(3)), whose definition has been kept as it was in the WPE 5th July, since it is the Presidency understanding that it would be better to further clarify its scope in Recital 2. Please, see Annex II for details.

In relation to the definition 2(9), the reference to "non-domestic wastewater" has been deleted since the Presidency understands that the current wording already covers all situations, taking into account the definition of 'urban wastewater' established in article 2(1).

In **Article 3 (Collecting systems)**, some changes have been made. In Article 3.1.b the Presidency has decided to keep the concept of urban wastewater, instead of domestic wastewater, because this way the environmental ambition is higher.

In any case, it is the Presidency understanding that the intention of the proposal was to ensure that when a collecting system is in place, there is an obligation to connect for domestic wastewaters. This does not mean that MS are obliged to connect all sources of non-domestic wastewater neither urban runoff.

The previous inclusion of the reference to the derogation mechanism for provisions in Article 3(2) by using individual systems has now been moved to Recital 5. The Presidency has decided to leave the article as it was in the previous version, given the possibility of extending the deadline for compliance of the smaller agglomerations to maximum six years, if the conditions in Article 23(5) are met.

Recital 5 has been modified to reinforce the idea of the possibility of using individual systems as a derogation for application of Articles 3 and 6 in some cases.

In **Article 4 (Individual systems)**, the reference to tertiary treatment has been deleted.

Recital 6 has also been modified to clarify that the use of individual systems shall ensure the same level of environmental protection as secondary and tertiary treatment, but assuming that they will not achieve the same level of treatment. It is also now explained in the recital that the level of detail of the information to be provided if a MS has to report under Article 4 (in case that the total load addressed by IAS at national level is higher than 2% of the total load), will be established in an implementing act.

Title of **Article 5** and some paragraphs have been modified to include the word 'polluted', due to the request of some MS who consider that urban runoff is not always posing a risk to the environment, but only when is really polluted. This is also consistent with the change made in the definition of 'separate sewers'. Other similar additions can be found in Annex V.

Also, there is a modification regarding the use of the 'drainage area of the agglomerations' instead of the 'catchment area of the wastewater treatment plants', when it comes to the design and the implementation of the integrated management plans. A new sentence has been added at the end of **Recital 7** to be coherent with the changes made to Article 5.

Finally, a new subparagraph has been added to the article in order to include a specific period for the developing of plans for those agglomerations included in an update of the list under paragraph 2. The wording for this subparagraph was based in the similar paragraph in article 7 for sensitive areas.

In **Recital 36** a change has been introduced to reflect some MS requests to have the possibility of using alternative indicators to load-based indicative objective of pollution reduction, such as those based on volume or frequency of sewer overflows for calculations related to article 5 and annex V.

In **Article 6** a new paragraph has been included (6(3)) to cover the cases where due to altitude (over 1500 m above sea level) and low temperatures, the biological treatment could not work properly. In those cases, a derogation may apply, only when MS can provide the Commission with detailed studies that demonstrate that their discharges do not adversely affect the environment.

Also in this article, and in the related **Recital 8**, an addition has been made to clarify specific situations in less sensitive areas and some outermost regions.

The Presidency would like to know the views of delegations regarding the proposed changes.

CLUSTER 3

Recitals 16, 19, 28, 29, Article 11 – Energy neutrality of UWWTP; Article 13 – Local climate conditions; Article 14 – Discharges of non-domestic wastewater; Article 16 – biodegradable non-domestic wastewater; article 17 – urban wastewater surveillance; article 20 sludge; article 21 – Monitoring make up the cluster 3.

The largest number of comments has been received for **Article 11 (Energy neutrality of UWWTP)**, where delegations have, generally, continued to ask for more flexibility and clarity, especially regarding the possibility of using other sources of renewable resources, and purchasing external renewable energy. Presidency has followed the same line of work as in previous WPE, so Article 11(2) has been rephrased, in order to facilitate its understanding. No new additional content or concepts have been introduced.

In addition, further clarifications have been made in **Recital 16.** , In particular it has been highlighted the idea that renewable energy can be produced on-site or off-site. The energy could come from the urban wastewater treatment plant itself, or from the transformation of its residues.

Complementary, and additional 25% of the energy could be purchased or produced from external sources.

Very few comments have been made to **Articles 13 (Local climatic conditions) and 16 (Biodegradable non-domestic wastewater)** by the delegations. Therefore, the Presidency has decided to keep the text as it was in the previous version.

In Article 14 (discharges of non-domestic wastewater) further minor changes have been done to keep improving the text. On paragraph 1, on the one hand, a reinforcement for the monitoring of relevant discharges of non-domestic wastewater has been added. This makes the article more consistent, while increasing the environmental protection. On the other hand, a new subparagraph 1(c) has been introduced, to improve the relationship with plant operators under specific circumstances.

In **Recital 19** a new sentence has been introduced to clarify the sources of non-domestic wastewater, including industries, commercial establishments or hospitals and other medical facilities.

In Article 17 (urban wastewater surveillance), the most relevant comments were related to whether the national system for urban wastewater surveillance should be mandatory or not. Since the opinions were quite divergent, as a compromise, the Presidency has maintained the text as it was. Other amendments in article 17(1) are oriented to gather different comments and suggestions from MS that could clarify and improve the text while maintaining the main idea. In addition, in article 17(3) many MS requested, on one hand, for an extended deadline to start monitoring antimicrobial resistance, and on the other hand, for the Commission to provide with clear methodologies. Therefore, the Presidency proposes a compromised text with an associated deadline for the implementing act.

In Article 20 (sludge), again comments in different directions have been expressed by the delegations. In article 20(1), minor amendments have been made, in order to better link the article to the waste hierarchy in Directive 2008/98/EC. In article 20(2) MS support the change for an Implementing Act, and some minor changes have been introduced to strengthen this option. Besides, the 'nitrogen' reference has been removed. It is the Presidency understanding that the recovery of phosphorus will be a major issue for circular economy in the future, as stated in the European Green Deal, so a big opportunity will be missed if article 20(2) does not maintain its original intention. In consequence, the Presidency keeps exploring a solution where, at least, phosphorus recovery technologies (which are already available and are viable in some conditions) could be promoted.

An addition has been made to **Recital 28** to state that the recovered nutrients shall be used as substitutes for primary nutrients, for example, in the production of fertilizers.

The **Article 21** set rules for the **monitoring**. Delegations keep showing their concerns about the major efforts required for the monitoring proposed by the Commission. Therefore, the Presidency has made further amendments to make it less stringent. Firstly, on Article 21(1)(d), many MS commented that greenhouse gases could not be just 'monitored' because this would be very difficult and costly in general, so additional possibilities have been introduced. The 'methane' reference in Article 21(1)(e) has been removed as well, because it was already included in Article 21(1)(d) as 'CH₄'.

On Article 21(2), amendments are oriented to reduce monitoring to relevant pollutants, which are usually present in urban wastewater. Also, a later possibility to exclude pollutants when it is demonstrated that they are absent from wastewaters have been included. However, the complete list of pollutants has been maintained, despite a possible overlapping of pollutants, in order to maintain better legal certainty.

In this line, **Recital 29** has been modified to clarify that microplastics and relevant micropollutants should be monitored in sewer overflow discharges with a representative sampling programme which would be used for water quality modelling. This monitoring should be updated on a regular basis to ensure the modelling continues to be representative of local conditions.

Finally, in Article 21(4), the subparagraph regarding the possibility of reducing the frequency of monitoring has been improved.

The Presidency would like to know the views of delegations regarding the proposed text for this set of articles.

CLUSTER 5

Article 25 - Access to justice; Article 26 – Compensation; Article 27 – Exercise of delegation; Article 28 – Committee; Article 29 – penalties; Article 30 – Evaluation; Article 31 – Review; Article 33 – Transposition; Article 34 – Entry into force and Article 35 – Addresses

These articles have not suffered any modification since that last meeting. It is the Presidency's intention to update them in the latest stage of the negotiation, if necessary, according to the progress of the discussions in the upcoming WPEs.

The Presidency would like to know the views of delegations regarding the proposed text for this set of articles.

ANNEX I - CLUSTER OF ARTICLES AND RELATED PROVISIONS

Clusters 1, 2, 3, 4 and 5

Cluster 1:

- Subject matter – Art 1. Recital 2.
- Collecting systems - Art 3. Art 2(1-4, 7, 10). Art 23(5). Annex I.A. Recitals 4 and 5.
- Individual systems - Art 4, Art 2(1-4, 7, 10). Recital 6.
- Integrated urban wastewater management plans - Art 5 + Art 2(3, 5-6, 8-9). Annex V. Recitals 7 and 8.
- Secondary treatment - Art 6. Art 2(11). Art 23(5). Annex I.B, I.D (Table 1). Recitals 8 bis and 12.

Cluster 2:

- Tertiary treatment - Art 7, Art 2(12, 15, 23), Annex I.B, I.D (Table 2), Annex II, Art 23(5), Art. 32. Recitals 9, 10 and 12.
- Quaternary treatment - Art 8, Art 2(13, 16-17), Annex I (Table 3). Recitals 11, 12 and 29.
- Extended producer responsibility - Art 9, Art 2(18-19, 24), Annex III. Recitals 13, 14 and 15.
- Minimum requirements for producer responsibility organisations - Art 10, Art 2(18-19, 24). Recital 15.
- Water reuse and discharges of urban wastewater - Art 15. Recitals 19 and 20.
- Risk assessment and management - Art 18. Recital 24.

Cluster 3:

- Energy neutrality of UWWTP - Art 11. Recital 16.
- Local climate conditions - Art 13. Recital 18.
- Discharges of non-domestic wastewater - Art 14. Art 16. Art 2(3). Annex I.C. Annex IV. Recital 19, 20 and 21.
- Urban wastewater surveillance - Art 17. Art 2(21). Recital 22 and 23.
- Sludge - Art 20. Art 2(14). Recital 28.
- Monitoring - Art 21. Recital 29.

Cluster 4:

- Transboundary cooperation - Art 12. Recital 17.
- Access to Sanitation - Art 19, Art 2(20). Recitals 25, 26 and 27.
- Information on monitoring - Art 22. Recital 30.
- National implementation programme - Art 23. Recital 31.
- Information to public - Art 24, Art 2(22). Annex VI. Recital 32 and 33.
- Repeal and transitional provisions - Art 32. Annex VII, Annex VIII. Recitals 39, 40 and 43.

Cluster 5:

- Access to Justice – Art. 25. Recital 34.
- Compensation – Art. 26.
- Exercise of delegation – Art. 27. Recital 35.
- Committee – Art. 28.
- Penalties – Art. 29. Recital 37.
- Evaluation – Art. 30. Recital 3 and 38.
- Review – Art. 31.
- Transposition – Art 33. Recitals 41, 42 and 43.
- Entry into force – Art 34.
- Addressees – Art 35.

ANNEX II - ES Presidency suggestions for revised text on 04th September 2023

2022/0345 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning urban wastewater treatment (recast)

(Text with EEA relevance)

• THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (2) Directive 91/271/EEC sets the legal framework for the collection, treatment and discharge of urban wastewater and the discharge of biodegradable wastewaters from certain industrial sectors. **Urban wastewaters can be formed by different mixtures of domestic wastewaters, urban runoff and non-domestic wastewater from other origins. Wastewater from institutions such as offices, schools, kitchens with food preparation, etc. which are predominantly originated from the human metabolism, qualifies as domestic wastewaters as well.** Its objective is to protect the environment from being adversely affected by insufficiently treated urban wastewater discharges. This Directive should continue to pursue the same objective, whilst also contributing to the protection of public health, when for instance urban wastewater is discharged in bathing waters or in water bodies used for the abstraction of drinking water, or when urban wastewater is used as an indicator for parameters relevant for public health. It should also improve access to sanitation and to key information related to the governance of the urban wastewater collection and treatment activities. Finally, this Directive should contribute to the progressive ~~elimination~~

Commented [IMS1]: PRES: moved and adapted from art. 2 as it was not completely appropriate in a definition article, according to the Council Legal Services

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

reduction of greenhouse gas (GHG) emissions from urban wastewater collection and treatment activities, ~~notably by further reducing nitrogen emissions~~ but also by promoting energy efficiency and production of renewable energies, and thus should contribute to the 2050 objective of Climate Neutrality established under Regulation (EU) 2021/1119 of the European Parliament and of the Council³.

- (5) In order to ensure effective treatment of urban wastewater before discharge into the environment, all urban wastewaters from agglomerations of 1 000 p.e. and above should be collected in centralised collecting systems, unless they justify a derogation for the use of individual systems under paragraph 1 of Article 4. When delineating their agglomerations, Member States should take into account the indicative reference threshold of 10 to 25 p.e. per hectare above which the population, possibly combined with economic activities, located in a specific area are considered sufficiently concentrated. Where ~~centralised~~ collecting such systems are already in place, Member States should ensure that all sources of urban wastewater are connected to them.
- (6) ~~Exceptionally, where~~ Where it can be demonstrated that the establishment of a centralised urban wastewater collecting system would produce no environmental benefit, would not be technically feasible, or would involve excessive costs, Member States should be allowed to use individual systems to treat urban wastewater, as long as they ensure the same level of protection of the environment ~~treatment as secondary and tertiary treatment~~. For this purpose, Member States should establish national registers to identify individual systems used on their territory and take all necessary measures to ensure that the design of such systems is adequate, that the systems are properly maintained and that they are subject to a regular compliance control. In particular, Member States should ensure that individual systems used for the collection and storage of urban wastewater are impervious and leak-proof, and that monitoring and inspection of the systems are carried out at regular and fixed intervals. Where individual systems are used to collect and treat more than 2% of the urban wastewater load at national level from agglomerations of 2 000 p.e. and above, Member States should provide the Commission with justifications for the reasons for the use of individual systems instead of collecting systems, the level of compliance of those systems with established standards under this Directive and measures taken to reduce the use of such systems. The Commission should be empowered to adopt implementing acts to establish the format of the reporting and the level of details of the information to be provided by national authorities.
- (7) During rainfall, storm water overflows and urban runoff represent a sizeable remaining source of pollution discharged into the environment. Those emissions are expected to increase due to the combined effects of urbanisation and progressive change of the rain regime linked with climate change. Solutions to reduce that source of pollution should be defined at local level taking into account the specific local conditions. They should be based on an integrated quantitative and qualitative water management in urban areas. Therefore, Member States should ensure that integrated urban wastewater management plans are established at local level for all agglomerations of 100 000 p.e. and above as those agglomerations are responsible for a significant share of the pollution emitted. Furthermore, integrated urban wastewater management plans should also be put in place for agglomeration of between 10 000 p.e. and 100 000 p.e. where storm water overflows or urban runoff poses a risk for the environment or public health. In order to ensure an adequate coverage of the integrated management plans and a comprehensive solution to storm water problems, they should be established for each urban wastewater drainage area of the concerned agglomerations.

Commented [IMS2]: PRES: To clarify that the derogation for article 3, under art. 4(1) could be applied when justified,

Commented [IMS3]: PRES: Centralised was deleted by MS suggestion because it adds ambiguity

Commented [EGD4]: PRES: some other clarifications have been added in the same line as in recital 5, to reinforce the way of application of article 4.

Commented [IMS5]: PRES: to clarify that individual systems, the implementing act will help to establish the level of detail of the information to be provided if a MS has to report under Art.4. This is to make sure that agglomerations that do not use IS for treating large amounts of load, i.e. below 2%, do not need to justify the use of IS

Commented [EGD6]: PRES: clarification according to amendments regarding drainage area in article 5 and annex V.

³ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

- (8) In order to ensure that the integrated urban wastewater management plans are cost-effective, it is important that they are based on best practices in advanced urban areas. Therefore, the measures to be considered should be based on a thorough analysis of the local conditions and should favour a preventive approach aiming at limiting the collection of unpolluted rain waters and optimising the use of existing infrastructures. With a preference for 'green' developments, new grey infrastructures should only be envisaged where absolutely necessary.

(8 bis) In order to protect the environment, in particular the coastal and marine environment, and public health from being adversely affected by the discharge of insufficiently treated urban wastewater, secondary treatment should be applied to all discharges of urban wastewater from agglomerations of 1 000 p.e. and above. Nevertheless enough time should be given to Member States to adapt their treatment infrastructures for agglomerations discharging their wastewaters into 'less sensitive areas' in coastal areas where 'appropriate treatment' is applied as defined in Council Directive 91/271/EEC. This adaptation time should be expanded in the case of Madeira due to the difficulty to install secondary treatment due to the specific geographical condition of the island.

Commented [EGD7]: PRES: this addition has been made in order to clarify specific situations in less sensitive areas and some outermost regions as established in article 6.

- (11) Recent scientific knowledge underpinning several Commission strategies⁴ highlight the need to take action to address the issue of micro-pollutants, which are now detected usually in all waters in the Union. Some of those micropollutants are hazardous for public health and the environment even in small quantities low concentrations of micrograms per litre or below. An additional treatment, i.e. quaternary treatment, should therefore be introduced in order to ensure that a large spectrum of micro-pollutants is removed from urban wastewater. Quaternary treatment should first focus on organic micro-pollutants, which represent a significant part of the pollution and for which removal technologies are already designed. The treatment should be imposed based on the precautionary approach combined with a risk-based approach. Therefore, all urban wastewater treatment plants of 100 000 p.e. and above should provide quaternary treatment, as those facilities represent a significant share of micro-pollutant discharges in the environment and the removal of micro-pollutants by urban wastewater treatment plants at such scale is cost-effective. For agglomerations of between 10 000 p.e. and 100 000 p.e., Member States should be required to apply quaternary treatment to areas identified as sensitive to pollution with micro-pollutants based on clear criteria, which should be specified. Such areas should include locations where treated urban wastewater discharge to water bodies result in low dilution ratios, or where the receiving water bodies are used for the production of drinking water or as bathing waters. In order to avoid the requirement of quaternary treatment for agglomerations of between 10 000 p.e. and 100 000 p.e., Member States should be required to demonstrate the absence of risks to the environment or to public health on the basis of a standardised risk assessment. In order to give Member States enough time to plan and deliver the necessary infrastructures, the requirement of quaternary treatment should progressively apply until 2040 with clear interim objectives.

Commented [IMS8]: PRES: in order to clarify definition 16 in article 2

- (16) The evaluation has also shown that the wastewater treatment sector offers the opportunity to significantly reduce its own energy consumption and to produce renewable energy, for

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Strategy for Plastics in a Circular Economy (COM/2018/028 final); Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, European Union Strategic Approach to Pharmaceuticals in the Environment (COM(2019) 128 final); Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Chemicals Strategy for Sustainability Towards a Toxic-Free Environment (COM(2020) 667 final); Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' (COM/2021/400 final).

example by better use of the available surfaces in urban wastewater treatment plants for solar energy production or by producing biogas from sludge. The evaluation also illustrated that, without clear legal obligations, only partial progress can be expected in this sector. In this context, Member States should be required to ensure that the total annual energy used by all urban wastewater treatment plants on their national territory treating a load of 10 000 p.e. and above does not exceed the production of energy from renewable sources as defined in Article 2(1) of Directive (EU) 2018/2001 of the European Parliament and of the Council⁵, by those urban wastewater treatment plants. **In order to take into account the specificities of each urban wastewater treatment plant, optimise the investments needed and provide for the required flexibility to reach the abovementioned objective, while ensuring that the potential for renewable energy production and for energy savings is fully seized, the energy neutrality objective should be met at national level and not for each treatment plant. All renewable energies produced by the urban wastewater treatment plant or from the transformation of urban wastewater residues, whether on-site or off-site, such as hydraulic, solar, thermal, wind energy or biogas, should be taken into account. A maximum share of 25% of renewable energy, not directly linked to urban wastewater treatment activities, may be purchased or produced from external sources.** That objective should be progressively met with interim targets by 31 December 2040. Reaching this energy neutrality target will contribute to reduce the avoidable greenhouse gas (GHG) emissions from the sector by 46 %, while supporting the achievement of the 2050 climate neutrality objectives and related national and Union objectives, such as the objectives set out in Regulation (EU) 2018/842 of the European Parliament and of the Council⁶. Encouraging EU-based biogas or solar energy production while enhancing energy efficiency measures in line with the Energy Efficiency First principle⁷, which means taking utmost account of cost-efficient energy efficiency measures in shaping energy policy and making relevant investment decisions, will also help reduce the Union energy dependence, one of the objectives expressed in the Commission "Repower EU" Plan⁸. It is also in line with Directive (EU) 2018/844 of the European Parliament and of the Council⁹ and with Directive (EU) 2018/2001 in which urban wastewater treatment sites are qualified as 'go-to' areas for renewables, meaning a location designated as particularly suitable for the installation of plants for the production of energy from renewable sources. In order to reach the objective of energy neutrality via optimal measures for each urban wastewater treatment plant and for the collection system, Member States should ensure that energy audits are carried out in accordance with Article 8 of Directive 2012/27/EU of the European Parliament and of the Council¹⁰ every four years. Those audits should include an identification of the potential for cost-effective use or

Commented [IMS9]: PRES: in order to complete and clarify the meaning of the ideas in article 11.2.

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- ⁵ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).
- ⁶ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).
- ⁷ Commission Recommendation (EU) 2021/1749 of 28 September 2021 on Energy Efficiency First: from principles to practice — Guidelines and examples for its implementation in decision-making in the energy sector and beyond
- ⁸ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: REPowerEU Plan (COM/2022/230 final).
- ⁹ Directive (EU) 2018/844 of the European Parliament and of the Council of 30 May 2018 amending Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).
- ¹⁰ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

production of renewable energy following the criteria set out in Annex VI to Directive 2012/27/EU.

- (19) Urban wastewater treatment plants also receive non-domestic wastewater, including industrial wastewater, which can contain a range of pollutants not explicitly covered by Directive 91/271/EEC, such as heavy metals, micro-plastics, micro-pollutants and other chemicals. **This non-domestic wastewater may come from industries, or commercial establishments, or hospitals and other medical facilities, etc.** In most instances, there is a poor understanding and knowledge of such pollution which could deteriorate the functioning of the treatment process and contribute to the pollution of the receiving waters, but also prevent the recovery of sludge and the re-use of treated wastewater. Member States should therefore regularly monitor and report on such non-domestic pollution that enters the urban wastewater treatment plants and is discharged into water bodies. To prevent pollution from non-domestic wastewater discharges at source, releases from industries or enterprises connected to collecting systems should be subject to prior authorisation. In order to ensure that collecting systems and urban wastewater treatment plants are technically capable of receiving and treating the incoming pollution, the operators who manage urban wastewater treatment plants receiving non-domestic wastewater should be consulted before those permits are issued and should be able to consult the issued permits in order to be able to adapt their treatment processes. Where non-domestic pollution is identified in the incoming waters, Member States should take appropriate measures to reduce pollution at source, by enhancing the monitoring of pollutants in collecting systems so that the pollution sources can be identified and, where necessary, by reviewing the authorisations provided to relevant, connected urban wastewater treatment plants.

Commented [IMS10]: PRES: to clarify that hospitals wastewaters are covered by Art. 14 referred to non-domestic wastewaters

- (18) **(19 bis)** The water resources of the Union are increasingly under pressure, resulting in permanent or temporary water scarcity in some areas of the Union. The Union's ability to respond to the increasing pressures on water resources could be improved through a wider reuse of treated urban wastewater, limiting freshwater abstraction from surface and groundwater bodies. Therefore, the reuse of treated urban wastewater should be encouraged and applied whenever appropriate, whilst taking into account the need to ensure that the objectives of good ecological and chemical status of the receiving bodies, as defined in Directive 2000/60/EC, are met. The reinforcement of the requirements for the treatment of urban wastewater, and the actions to better monitor, track and reduce pollution at source, will have impacts on the quality of treated urban wastewater, and will therefore support water reuse. Where water reuse serves the purpose of agricultural irrigation, it should be carried out in accordance with Regulation (EU) 2020/741 of the European Parliament and of the Council¹¹.

Commented [EGD11]: PRES: this new recital has been separated from the previous one because it is not referred to Article 14

- (28) The evaluation concluded that sludge management could be improved to better align it with the principles of the circular economy and of the waste hierarchy as defined in Article 4 of Directive 2008/98/EC. The actions to better monitor and reduce pollution at source from non-domestic discharges will help improving the quality of the sludge produced and ensure its safe use in agriculture. In order to ensure a proper and safe recovery of nutrients, including the critical substance phosphorus, from the sludge, minimum recovery rates should be defined at Union level. **The recovered nutrients shall be used as substitutes for primary nutrients, for example, in the production of fertilizers.**

Commented [EGD12]: PRES: suggested by MS in relation to article 20.

- (29) **Additional Adequate** monitoring is necessary to verify compliance with the new requirements concerning micropollutants, non-domestic pollution, energy neutrality, GHG emissions, **storm water sewer** overflows and **polluted** urban runoff **discharges**. **Microplastics and relevant micropollutants should be monitored, where relevant, in**

Commented [EGD13]: PRES: additions in Recital 29 were made in order to clarify aspects in Article 21 related to micropollutants and microplastics and to give more consistency to the text and concepts related.

¹¹ Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse (OJ L 177, 5.6.2020, p. 32).

sewer overflow discharges with a representative sampling programme which would inform concentration adopted for water quality modelling. This monitoring should be updated on a regular basis to ensure the modelling continues to be representative of local conditions. To verify the performance of the quaternary treatment concerning the reduction of micropollutants in urban wastewater discharges, it is sufficient to monitor a limited set of representative micro-pollutants. The monitoring frequencies should be aligned to the current best practices, as currently practiced in Switzerland. To remain cost-effective, those obligations should be adapted to the size of the urban wastewater treatment plants and of the agglomerations. The monitoring will also contribute to provide data for the overall Environmental Monitoring Framework as set up under the 8th Environmental Action Programme, and more specifically feed the Zero Pollution Monitoring Framework underpinning it.

- (36) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission for the adoption of standards for the design of individual systems, for the adoption of monitoring and assessment methods for the indicators of the quaternary treatment, for the establishment of common conditions and criteria for the application of the exoneration for certain products from extended producer responsibility, for establishing methodologies to support the development of integrated urban wastewater management plans, **for the development of alternative indicators to load-based indicative objective of pollution reduction based for instance on volume, frequency of sewer overflows, or other relevant alternative indicator, and for establishing methodologies** to measure antimicrobial resistance and micro-plastics in urban wastewater, and for the adoption of the format of, and modalities for, presenting the information to be provided by Member States and compiled by the EEA on the implementation of this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².
- (39) Directive 91/271/EEC provides for specific deadlines for Mayotte due to its inclusion in 2014 as an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union. Therefore, the application of the obligations to establish collecting systems and apply secondary treatment to urban wastewater from agglomeration of 2 000 p.e. and above should be deferred with respect to Mayotte.
- (39bis) **It is appropriate to consider the specific situation of Mayotte and the other Union's outermost regions, as listed in Article 349 of the TFEU, which provides for specific measures to support those regions. In terms of urban wastewater treatment of these territories, special attention should be given to the difficult topography and insularity.**

Commented [EGD14]: PRES: some MS requested to have the possibility of using alternative indicators to load-based calculation in article 5 and Annex V. This recital seemed to be an appropriate place to clarify this.

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
- HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive lays down rules on the collection, treatment, and discharge of urban wastewater, to protect the environment and human health while progressively ~~eliminating~~ **reducing** greenhouse gas emissions **to sustainable levels** and improving the energy balance of urban wastewater collection and treatment activities. It also lays down rules on access to sanitation, on transparency of the urban wastewater sector and on the regular surveillance of public health relevant parameters in urban wastewaters.

Commented [IMS15]: PRES: minor changes to include comments of MS

Article 2

Definitions

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

- (1) ‘urban wastewater’ means domestic wastewater ~~or, the mixture of domestic wastewater mixed with and either~~ non-domestic wastewater ~~and/or the mixture of domestic wastewater and with~~ urban runoff, **or both of them**;
- (2) ‘domestic wastewater’ means wastewater from residential settlements, ~~and~~ services **and institutions** which originates predominantly from the human metabolism and/or from household activities;
- (3) ‘non-domestic wastewater’ means ~~any~~ wastewater, **other than domestic wastewater and urban runoff**, which is discharged ~~into collecting systems~~ from premises used for ~~either the following~~:
 - (a) the exercise of a trade;
 - (b) ~~activities carried out by an institution;~~
 - (c) ~~or industrial or economical~~ activities;

Commented [IMS16]: PRES: Deletion suggested by MS

~~The wastewaters from the above activities, that are only domestic wastewater (from toilets or kitchens with food preparation) are entitled as domestic wastewaters which originates predominantly from the human metabolism and/or from household like activities (for example, from kitchens with food preparation) are entitled as domestic wastewaters.~~

Commented [IMS17]: PRES: these clarifications were adapted and moved to Recital 2, as suggested by MS and the Council Legal Services

- (4) 'agglomeration' means an area where the **population (expressed in population equivalent), combined or not with and/or economic activities** pollution load of urban wastewater is sufficiently concentrated (~~taking as a reference 10 p.e. per hectare or above~~) for urban wastewater to be collected and conducted to **one or more** an urban wastewater treatment plants or to **a one or more** final discharge points, into receiving waters;
- (5) 'urban runoff' means **precipitation** ~~rainwater~~ from agglomerations collected by combined or separate sewers;
- (6) '~~sewer storm water~~ overflow' means discharge of untreated urban wastewater **into** receiving waters from **separate or** combined sewers ~~caused by rainfall~~;
- (7) 'collecting system' means a system of conduits which collects and conducts urban wastewater;
- (8) 'combined sewer' means a **single** conduit ~~that that designed to~~ collects and conducts urban wastewater including urban runoff; ~~including urban runoff~~;
- (9) 'separate sewer' means a **system of** conduits that separately collects and conducts **either urban runoff or** either of the following:
- (a) ~~domestic urban~~ wastewater **not including urban runoff**;
 - (b) ~~non-domestic wastewater~~ **non-domestic wastewater**;
 - (c) ~~a mixture of domestic and non-domestic wastewater~~;
 - (d) ~~rainwater from agglomerations~~;
- (10) '1 population equivalent' or '(1 p.e.)' means ~~the unit expressing the average potential water pollution load caused by one person per day, where 1 p.e. is the organic biodegradable load per day~~ having a five-day biochemical oxygen demand (BOD5) of 60 g of oxygen ~~per day~~ per day;
- (10 bis) [NEW] 'primary treatment' means treatment of urban wastewater by a physical and/or chemical process involving settlement of suspended solids, or other processes in which the BOD5 of the incoming wastewater is reduced by at least 20% before discharge and the total suspended solids of the incoming wastewater are reduced by at least 50%.
- (11) 'secondary treatment' means treatment of urban wastewater by a process generally involving biological treatment with a secondary settlement or another process **which reduces removes most of biodegradable organic matter in from urban wastewater**;

Commented [IMS18]: PRES: Addition made as suggested by some MS

Commented [IMS19]: PRES: the addition has been eliminated because some MS commented that discharges could be also made to watercourses that occasionally run dry. Besides, this aspect is not reflected in the current Directive

Commented [IMS20]: PRES has analysed clarifications and suggestions made by MS in order to find a fine solution for definitions 8 and 9. PRES understands that the current wording of definition 9 already covers all situations, given the definition of 'urban wastewater' established above.

Commented [EGD21]: PRES: following some MS comments and also in consistency with 2(12)

- (12) 'tertiary treatment' means treatment of urban wastewater by a process which **reduces** ~~removes most of~~ 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~~ **reduces** a broad spectrum of micropollutants ~~in from the~~ **from** urban wastewaters;
- (14) 'sludge' means ~~any solid, semisolid, or liquid waste~~ **organic residue and inorganic sludge residue** resulting from the treatment of urban wastewater **in an urban wastewater treatment plant (excluding debris, grit, grease, other debris and any other screenings residues from the first pre-treatment step)**;
- (15) 'eutrophication' means the enrichment of water by nutrients, especially compounds of nitrogen and/or phosphorus, causing an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance to the balance of organisms present in the water and to the quality of the water concerned;
- (16) 'micro-pollutant' means a substance, including its breakdown products, ~~that is usually present in the environment and urban wastewaters in low concentrations below milligrams per litre~~ **and which can be considered hazardous to human health or the environment based on any of the relevant criteria set out in Part 3 and Part 4 of Annex I to Regulation EC 1272/2008¹³**;
- (17) 'dilution ratio' means the ratio ~~of between the last five years average volume~~ of annual flow of the receiving waters at the point of discharge ~~and to the last five years average of the annual discharge volume of urban wastewater into surface waters; 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 ~~a~~ **nationally recognised** organisation established collectively by producers for the purpose of fulfilling their obligations under Article 9 **and 10**;
- (20) 'sanitation' means facilities and services for the safe disposal of human urine, faeces, and menstrual blood;

Commented [IMS22]: PRES: some MS considered that definition should not include sludge from primary treatment. It is the PRES understanding that "first treatment step" were referring to the "pretreatment" instead of « primary treatment ». In this sense, some changes have been made to clarify it.

Commented [EGD23]: PRES: some MS suggested to come back to the specific concentrations measure unit, but it seems easier to clarify it in Recital 11.

Also, a reference to the Regulation in the footnote was missing.

¹³ Regulation EC 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ L 353 31.12.2008, p 1).

- (21) 'antimicrobial resistance' means the ability of micro-organisms to survive or to grow in the presence of a concentration of an antimicrobial agent which is usually sufficient to inhibit or kill micro-organisms of the same species;
- (22) 'public concerned' means the public affected or likely to be affected by, or having an interest in, the decision-making procedures for the implementation of the obligations laid down in this Directive, including non-governmental organisations promoting the protection of human health or the environment;
- (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
- (25) **'load' means the amount of organic biodegradable matter measured as BOD5 in urban wastewater, expressed in p.e., or any pollutant or nutrient in urban wastewater, expressed in p.e. or mass unit per time (usually kilogram per day or year).**

Commented [IMS24]: PRES: minor changes have been made to clarify the definition

Article 3

Collecting systems and calculation of the load expressed in p.e.

1. ~~Unless they justify of a derogation under paragraph 1 of Article 4,~~ Member States shall ensure that all agglomerations with a p.e. of 2 000 p.e. and above comply with the following requirements:
 - (a) they are provided with collecting systems;
 - (b) all their sources of domestic **urban** wastewater are connected to the collecting system.
2. ~~Unless they justify of a derogation under paragraph 1 of Article 4, By 31 December 2030~~ **2033**, Member States shall ensure that all agglomerations with a p.e. of between 1000 and 2000 p.e. comply with the following requirements of paragraph 1 by 31 December 2033.
 - ~~(a) they are provided with collecting systems;~~
 - ~~(b) all their sources of domestic urban wastewater are connected to a the collecting system.~~

Member states may derogate from this deadline for maximum six years, if the conditions in Article 23(5) are met.

Commented [IMS25]: PRES: as suggested by some MS the possibility of derogation is already clear in article 4. No need to repeat here. In any case, some clarifications have been added to Recital 5.

Commented [IMS26]: PRES: some MS suggested to come back to domestic, but some others consider that is more environmentally ambitious to refer to urban wastewaters instead

Commented [IMS27]: PRES: clauses a) and b) have been deleted as suggested by MS because they are redundant, as this paragraph is already referring to the requirements of the first paragraph

3. The calculation of the load of an agglomeration expressed in p.e. shall be based calculated on the basis of the maximum average weekly load entering the treatment plant generated in that agglomeration during the year, excluding unusual situations such as those due to heavy rain. ~~The calculation of the load expressed in p.e. subject to treatment in an urban wastewater treatment plant,~~ shall also be based on the maximum average weekly load;

Commented [IMS28]: PRES: in view of the comments received, and as a compromise, PRES proposes to revert to the wording of directive 91/271 as it is known and applied by MS and as it is already agreed language.

4. Collecting systems shall fulfil the requirements of Part A of Annex I.

Article 4

Individual systems

1. ~~By way of derogation~~ **Member States may derogate** from Article 3, ~~where exceptionally if~~ the establishment of **or the connection to** a collecting system is not justified either because it would produce no environmental **or health** benefit, **it is not technically feasible** or because it would involve excessive cost.

If derogating from Article 3, Member States shall ensure that individual systems for the **collection, storage and, when applicable,** treatment of ~~urban domestic~~ **urban** wastewaters ('individual systems') are used for in agglomerations of 1 000 p.e. and above.

Commented [IMS29]: PRES: Addition for further clarification of the text

2. Member States shall ensure that individual systems are designed, operated and maintained in a manner that ensures at least achieves the same level of **environmental protection** ~~treatment~~ as the secondary and tertiary treatments referred to in Articles 6 and 7.

~~Tertiary treatment for individual systems will only be required in those cases that individual systems are discharging in a sensitive area or a catchment area.~~

~~This requirement will apply to existing individual systems six years after 2033.~~

Commented [IMS30]: PRES: This sentence has been removed as suggested by some MS. The goal of article 4(2) has been stated in Recital 6, to clarify that the use of IAS has to achieve the same level of environmental protection as a secondary and a tertiary treatment (when applicable), not the same level of treatment.

3. [NEW] Member States shall ensure that **individual systems that are used** in agglomerations of **1000 p.e. and above** ~~where individual systems are used~~ are registered in a **public national, or regional or local** registry and that regular inspections **or other means of regular checks or control** of those systems, **on the basis of a risk-based approach,** are carried out by the appropriate authority **or other body authorised at national, or regional or local level.**

Commented [IMS31]: PRES: the amendments are oriented to improve the wording and to specify that registries could be established at local level.

4. The Commission is empowered to adopt ~~delegated~~ **implementing** acts ~~in accordance with the procedure referred to in Article 27 to supplement this Directive by~~ **that shall be adopted in accordance with the examination procedure referred to in Article 28(2) for establishing minimum requirements on for:**

- (a) the design, operation, and maintenance of individual systems; and

- (b) ~~by specifying the requirements for the regular inspections referred to in paragraph 2 3,~~
on the basis of a risk-based approach ~~second subparagraph.~~

The Commission will provide the requirements by 124 months from the entry into force of this Directive.

- 4 5. Member States that use individual systems to treat more than 2% of the urban wastewater load **at national level** from agglomerations of 2 000 p.e. and above shall provide the Commission with a ~~detailed~~ justification for the use of individual systems ~~in each of the agglomerations in~~ **each of the agglomerations**. That justification shall:

- (a) demonstrate ~~for each of those agglomerations~~ that the conditions for using individual systems set out in paragraph 1 are fulfilled;
- (b) describe the measures taken in accordance with paragraph 2 **and 3**;
- (c) demonstrate compliance with the minimum requirements referred to in paragraph 3 4 where the Commission has exercised its ~~delegated~~ **implementing** power under that paragraph.

- 5 6. The Commission is empowered to adopt implementing acts establishing the format for ~~submitting~~ the information referred to in paragraph 4 5. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2). **The Commission will provide the format by 124 months from the entry into force of this Directive.**

Article 5

Integrated urban wastewater **and polluted urban runoff** management plans

1. By 31 December ~~2030~~ **2035**, Member States shall ensure that an integrated urban wastewater management plan is established for **each drainage area of** agglomerations ~~s~~ of 100 000 p.e. and above.
2. By 31 December ~~2025~~ ~~2027~~ **2030**, Member States shall establish a list of agglomerations of between 10 000 p.e. and 100 000 p.e. where, considering historic data, **modelling** and state-of-the-art climate projections, one or more of the following conditions apply:
 - (a) ~~sewer storm-water~~ overflow or **polluted discharges of** urban runoff ~~discharges~~ poses a risk to the environment or human health;

Commented [IMS32]: PRES: as suggested by MS in order to clarify this issue, which has repeatedly arisen in WPEs.
For all MS that are above that national value of 2%, the justifications for each agglomeration will have to follow the indications and requirements of the implementing act referred below in 4(6)

Commented [EGD33]: PRES: 'polluted' has been added to address the request of some MS, since they consider that urban runoff is not always posing a risk to the environment, but only when is really polluted. This is also consistent with the definition of 'separate sewers'.

Other similar additions can be found both in this article and Annex V.

Commented [EGD34]: PRES: according the suggestions of some MS, the concept of 'catchment area' in Annex V, which is related to this article, was not correct. Therefore it should be replaced by 'drainage area'.

- (b) ~~sewer storm-water~~ overflow represents more than ~~1%~~ **3%** of the annual collected urban wastewater load **of the parameters referred to in Tables 1 and, where relevant, Table 2 of Annex I**, calculated in dry weather ~~flow conditions~~;
- (c) ~~sewer storm-water~~ overflow or **polluted discharges of** urban runoff **discharges** prevents the fulfilment of any of the following:
- (i) the requirements established under Article 5 of Directive (EU) 2020/2184;
 - (ii) the requirements set out in Article 5(3) of Directive 2006/7/EC of the European Parliament and of the Council¹⁴;
 - (iii) the requirements set out in Article 3 of Directive 2008/105/EC of the European Parliament and of the Council¹⁵;
 - (iv) the environmental objectives set out in Article 4 of Directive 2000/60/EC.
 - (v) **the requirements established under Article 3 of Directive 2006/118/EC**¹⁶

Member States shall review the list referred to in the first subparagraph every ~~five~~ **six** years after its establishment and update it where necessary.

Following an update of the list, Member States shall ensure that integrated management plans are established for agglomerations within six years of their inclusion in that list.

3. By 31 December ~~2035~~ **2040**, Member States shall ensure that an integrated urban wastewater management plan is established for **each drainage area of** agglomerations referred to in paragraph 2.
4. Integrated urban wastewater management plans shall be made available to the Commission on request.
5. Integrated urban wastewater management plans shall include at least the elements set out in Annex V.
6. The Commission is empowered to adopt implementing acts to:
 - (a) provide methodologies for the identification of the measures referred to in point 3 of Annex V;

Commented [EGD35]: PRES: It is the PRES understanding that a new subparagraph was needed in order to include an specific period to develop plans for those agglomerations included in an update of the list in paragraph 2.
This subparagraph was based in the similar paragraph in article 7 for sensitive areas.

¹⁴ Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC (OJ L 64, 4.3.2006, p. 37).

¹⁵ Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

¹⁶ **Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration.**

- (b) provide methodologies for the determination of alternative indicators to verify whether the indicative objective of pollution reduction referred to in point 2 (a) of Annex V is achieved;
- (c) determine the format by which integrated urban wastewater management plans are to be made available to the Commission where requested in accordance with paragraph 4.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2). **The Commission will provide the methodologies and format by [24 months from the entry into force of this Directive].**

7. Member States shall ensure that integrated urban wastewater management plans are reviewed **at least every ~~5~~ six years** after their establishment and updated where necessary.

Article 6

Secondary treatment

1. ~~For agglomerations of 2 000 p.e. and above,~~ Member States shall ensure that **urban wastewater treatment plants serving agglomerations of 2 000 p.e. and above** ~~urban wastewater entering collecting systems is subject to~~ **meet the relevant requirements for secondary treatment or an equivalent treatment of urban wastewater, set out in accordance with Part B and Table 1 of Annex I in accordance with the methods for monitoring and evaluation of results laid down in Part D of Annex I paragraph 3 or an equivalent treatment before discharge into receiving waters.**

~~For agglomerations of between 2 000 p.e. and 1 000 p.e. which are discharging into coastal areas, the obligation set out in the first paragraph shall not apply until 31 December 2027 for:~~

~~(a) For~~ **For agglomerations of between 2 000 p.e. and 10 000 p.e. which are discharging into coastal areas** ~~waters as defined under Directive 2000/60/EC and which apply appropriate treatment in accordance with Article 7 of Council Directive 91/271/EEC on~~ **{please insert the date = date of entry into force of this directive}**, the obligations set out in the first paragraph shall not apply until 31 December 2030.

~~(b)~~ **For agglomerations discharging into less sensitive areas as referred to in Article 6(1) of Council Directive 91/271/EEC the obligations set out in the first paragraph shall apply in seven years after the ~~on~~ {please insert the date = date of entry into force of this Directive} and fifteen years in the case of Madeira after the entry into force of this Directive.**

Commented [EGD36]: PRES: as stated in Recital 8, the addition has been made in order to clarify specific situations in less sensitive areas and some outermost regions.

2. For agglomerations of between 1 000 p.e. and 2 000 p.e., ~~Unless they justify a derogation under paragraph 1 of Article 4,~~ Member States shall ensure that urban wastewater treatment plants serving agglomerations of between 1 000 p.e. and 2 000 p.e., by 31 December 2033 ~~urban waste water entering collecting systems is subject to meet the relevant requirements for secondary treatment or an equivalent treatment set out in Part B and Table 1 of Annex I in accordance with the methods for monitoring and evaluation of results laid down in Part D of Annex I accordance with paragraph 3 or an equivalent treatment before discharge into receiving waters by 31 December 2030.~~

Member states may derogate from this deadline for maximum six years, if the conditions in Article 23(5) are met.

3. ~~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 1 of Part B of Annex I. The maximum permitted number of samples which fail to conform to the parametric values of table 1 of Part B of Annex I is set out in table 4 of Part D of Annex I.~~

4. ~~The load expressed in p.e. shall be calculated on the basis of the maximum average weekly load entering the urban wastewater treatment plant during the year, excluding unusual situations due to heavy rain.~~

3. Urban wastewater discharges to waters situated in high mountain regions (over 1500 m above sea level) where it is difficult to apply an effective biological treatment due to low temperatures may be subjected to treatment less stringent than that prescribed in paragraph 1, provided that detailed studies demonstrate that such discharges do not adversely affect the environment and that those studies are communicated to the Commission on request.

Commented [EGD37]: PRES: retaken this provision from original D/91/271 following MS requests.

Article 11

Energy ~~and climate~~ neutrality of urban wastewater treatment plants ~~and collecting systems~~

1. Member States shall ensure that energy audits of urban wastewater treatment plants and collecting systems are carried out every four years. Those audits shall be carried out in accordance with Article 8 of Directive 2012/27/EU and include an identification of the potential for cost-effective **measures to reduce the use of energy and or enhance the** production of renewable energy, with a particular focus to identify and utilise the potential for biogas production, while reducing **greenhouse gas methane** emissions. The first audits shall be carried out:
 - (a) by 31 December ~~2025~~ **2030** for urban wastewater treatment plants treating a load of 100 000 p.e. and above and the collecting systems connected to them;
 - (b) by 31 December ~~2030~~ **2035** for urban wastewater treatment plants treating a load of between 10 000 p.e. and 100 000 p.e. and the collecting systems connected to them.

2. Member States shall ensure that, **at national level, urban wastewater treatment plants treating a load of 10 000 p.e. and above produce energy from renewable sources, the total annual energy from renewable sources, as defined in Article 2(1) of Directive (EU) 2018/2001, produced at national level, on or off site, by urban wastewater treatment plants treating a load of 10 000 p.e. and above is equivalent to at least, based on the results of the audits referred to in paragraph 1.:**

This energy will be produced from urban wastewater resources, on or off-site. A maximum of 25% of energy may be produced or purchased from external renewable sources.

Member States shall ensure that total annual energy from renewable sources produced by urban wastewater treatments plants or purchased under paragraphs 1 and 2 is equivalent to at least:

- (a) ~~50~~ **20** % of the total annual energy used by such plants by 31 December 2030;
- (b) ~~75~~ **60**% of the total annual energy used by such plants by 31 December 2035;
- (c) 100 % of the total annual energy used by such plants by 31 December 2040;

In the calculation of the total annual energy produced from renewable sources as referred to in the first subparagraph, Member States may take into account a maximum of 10 % of renewable energy neither produced by urban wastewater treatment

Commented [EGD38]: PRES: according to the received comments the drafting of this paragraph was not clear. Some changes have been made in this article and the related recital to clarify it, not adding any new or different concept. It has only been rephrased trying to achieve a clearer wording.

~~operators nor produced within a 5 kilometer radius from an urban wastewater treatment plants.~~

~~Member States shall ensure that the potential for energy produced from urban wastewater resources, as demonstrated by the energy audit as referred in paragraph 1, is used to full extent, representing at least 80% of the energy used by urban wastewater treatment plants referred to in points (a), (b) and (c) of the first subparagraph.~~

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 14

Discharges of non-domestic wastewater

1. Member States shall ensure that the discharges of non-domestic wastewater into collecting systems and urban wastewater treatment plants are subject to prior ~~general binding rules regulations and/or~~ specific authorisations by the competent authority ~~or appropriate body~~.

~~Those general binding rules prior regulations and/or specific authorisations shall ensure that the water quality requirements set out in other Union legislation are fulfilled, and, when applicable, that quality and quantity of relevant discharges of non-domestic wastewater is monitored.~~

Where ~~general binding rules regulations and/or specific authorisations~~ are provided for discharges into collecting systems and wastewater treatment plants, Member States shall ensure that the competent authority ~~or appropriate body~~:

- (a) consults ~~and informs~~ the operators of collecting systems and urban wastewater treatment plants into which the non-domestic wastewater is discharged, before granting specific authorisations;
- (b) **on request** allows the operators of collecting systems and urban wastewater treatment plants receiving non-domestic wastewater discharge to consult the specific authorisations granted in their catchment areas ~~on request~~.

Commented [EGD39]: PRES: retaken "prior" in order to give consistency to text and with first subparagraph

Commented [EGD40]: PRES: as suggested by MS, this paragraph 1 could benefit from a reinforcement in monitoring, increasing environmental protection. Also, MS suggested to reinforce relationships with operators not only consulting them, but informing about regulations and/or authorisations.

(c) Where prior regulations are provided for discharges into collecting systems and wastewater treatment plants, Member States shall ensure that the operators of collecting systems and urban wastewater into which the non-domestic wastewater is discharged, are consulted before the prior regulations are adopted.

Commented [EGD41]: PRES: as suggested by MS, paragraph 1 states "regulations and authorisations" but (a) and (b) only mention "authorisations". Therefore a new (c) should be added, where also operators are consulted when regulations are adopted.

2. Member States shall **ensure that competent authorities or appropriate bodies** take the appropriate measures, including a review of the ~~general binding rules regulations and/or~~ specific authorisations, to identify, prevent and reduce as far as possible the sources of pollution in non-domestic wastewater referred to in paragraph 1 **of this Article** where any of the following situations arise:
- (a) pollutants have been identified at the inlets and outlets of the urban wastewater treatment plant under the monitoring of Article 21(3);
 - (b) sludge arising from urban wastewater treatment is to be used in accordance with Council Directive 86/278/EEC¹⁷;
 - (c) treated urban wastewater is to be reused in accordance with Regulation (EU) 2020/741;
 - (d) the receiving waters are used for abstraction of water intended for human consumption as defined in Article 2, point (1), of Directive (EU) 2020/2184;
 - (e) the pollution of the non-domestic wastewater discharged into the collecting system, or the urban wastewater treatment plant poses a risk to the operation of that system or plant.
3. The ~~general binding rules regulations and~~ specific authorisations referred to in paragraph 1 **of this Article** shall fulfil the requirements set out in Part C of Annex I. The Commission is empowered to adopt delegated acts in accordance with the procedure referred to in Article 27 to amend Part C of Annex I in order to adapt it to technical and scientific progress in the field of environmental protection.
4. The specific authorisations referred to in paragraph 1 shall be reviewed and, where necessary, adapted at least every ~~6~~ **ten** years.

Commented [EGD42]: PRES: suggested by MS in order to clarify that the measures are taken by competent authorities/bodies, but not by MS themselves.

The ~~general binding rules regulations~~ referred to in paragraph 1 shall be reviewed at **regular intervals and, where necessary, adapted.**

If the characteristics of the non-domestic wastewater, the urban wastewater treatment plant or the receiving water body change significantly, The the provisions of the specific

¹⁷ Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6).

~~authorisations shall be reviewed and adapted to these changes updated in the cases where the characteristics of the non-domestic wastewater, of the urban wastewater treatment plant or of the receiving water body change significantly to ensure that those conditions remain fulfilled.~~

Article 16

Biodegradable non-domestic wastewater

1. Member States shall establish requirements for the discharge of biodegradable non-domestic wastewater that are appropriate to the nature of the industry concerned and that ensure at least the same level of environmental protection as the requirements set out in ~~part~~ **Part B** of Annex I.
2. The requirements referred to in paragraph 1 **of this Article** shall apply when the following conditions are fulfilled:
 - (a) the wastewater originates from plants treating a load of 4 000 p.e. and above that belong to the industrial sectors listed in Annex IV and that do not carry out any of the activities listed in Annex I to Directive 2010/75/EU of the European Parliament and of the Council¹⁸;
 - (b) the wastewater does not enter an urban wastewater treatment plant before it is discharged to receiving waters ('direct discharge').

Article 17

Urban wastewater surveillance

- ~~1. Member States shall monitor the presence of the following public health parameters in urban wastewater:~~
 - ~~(a) SARS-CoV-2 virus and its variants;~~
 - ~~(b) poliovirus;~~
 - ~~(c) influenza virus;~~
 - ~~(d) emerging pathogens;~~
 - ~~(e) contaminants of emerging concern;~~

¹⁸ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334 17.12.2010, p. 17).

~~(f) any other public health parameters that are considered relevant by the competent authorities of the Member States for monitoring.~~

2 1. For the purpose of paragraph 1, Member States shall set up a national system for **permanent** cooperation and coordination between competent authorities responsible for public health and competent authorities responsible for urban wastewater treatment with regard to:

(a) the identification of ~~other~~ **relevant** public health parameters ~~than the ones referred to in paragraph 1~~ that are to be monitored **at least in the inlet of urban wastewater treatment plants**, such as those in the following list:

(i) SARS-CoV-2 virus and its variants **of interest**;

(ii) poliovirus;

(iii) influenza virus;

(iv) emerging pathogens;

~~(v) contaminants of emerging concern;~~

(vi) any other public health parameters that are considered relevant by the competent authorities of the Member States for monitoring;

(b) the determination of the location and the frequency of urban wastewater sampling and analysis for each public health parameter identified in accordance with ~~paragraph 1(a)~~, ~~taking into account~~ **thus regarding** the available health data and the needs in terms of public health data and, where relevant, the local epidemiological situations;

(c) the organisation of an appropriate and timely communication of the monitoring results to the competent authorities responsible for public health and to Union platforms, where such platforms are available, **and in accordance with data protection law**.

3 2. When a public health emergency ~~due to SARS-CoV-2~~ is declared by the competent authority responsible for public health in the Member State, ~~the presence of SARS-CoV-2 and its variants~~ **relevant public health parameters** shall be monitored in urban wastewaters from a **representative distribution** ~~at least 70 % of the national population. Where this pathogen is SARS-CoV-2 or one of its variants, this monitoring shall cover at least 50 % of the national population.~~ and at least one sample shall be taken per week for agglomerations of ~~100 000 p.e. and more~~. This monitoring shall continue until ~~this~~ **the** competent authority declares that the public health emergency ~~due to SARS-CoV-2~~ has ended, **or during a longer period if deemed useful for other purposes, according to the same competent authority**.

Commented [EGD43]: PRES: some MS insisted that the national system should be not mandatory. Others preferred to maintain it, to delete the whole article or even to return to the Commission's proposal.

Therefore, as a compromise, PRES proposes to keep it as it is.

Commented [IMS44]: PRES has included some minor amendments and clarifications proposed by some MS to smooth and facilitate implementation of this paragraph and the following ones.

To determine whether there is a public health emergency, the competent authority shall ~~take into account~~ **consider Commission decisions adopted pursuant to Article 23(1) of Regulation (EU) 2022/2371 of the European Parliament and of the Council¹⁹**, assessments of the European Centre for Disease Prevention and Control, and decisions of the World Health Organisation (WHO) taken in accordance with the International Health Regulations ~~and Commission decisions adopted pursuant to Article 23(1) of Regulation .../... of the European Parliament and of the Council¹⁹+~~.

43. For agglomerations of 100 000 p.e. and above, Member States shall, by ~~1 January 2025~~ **2026** **[OP please insert the date = the last day of the second year from the date of adoption of the implementing act in the following subparagraph]**, ensure that antimicrobial resistance is monitored ~~at least twice a year in~~ **at the inlets and outlets of urban wastewater treatment plants and, when relevant, in the collecting systems.**

By [OP please insert the date = the last day of the second year from the date of entry into force of this Directive], The the Commission shall ~~may~~ shall adopt implementing acts in accordance with the procedure referred to in Article 28 to ensure ~~an~~ a uniform application of this Directive by **establishing a minimum frequency of sampling and** a harmonised methodology for measuring antimicrobial resistance in urban wastewaters.

45. Results from monitoring referred to in this Article shall be reported in accordance with Article 22(1), point (g).

Article 20

Sludge **and resource recovery**

1. Member States shall take the necessary measures to ensure that sludge management routes are conform to the waste hierarchy provided for in Article 4 of Directive 2008/98/EC. Such routes shall maximize prevention, **preparing for** re-use, ~~and~~ recycling **and other material recovery** of resources and minimize the adverse effects on the environment.
2. The Commission is empowered to adopt ~~delegated~~ **implementing acts in accordance with the procedure referred to in Article 27 to supplement this Directive by setting out promoting setting-outset out the minimum reuse and recycling rates for phosphorus ~~and nitrogen~~ from wastewater and sludge **and from urban wastewater not reused under the derogation of Article 15(1), taking in order to take** into account available technologies, **resources, and****

¹⁹ Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU. (OJ L 314, 6.12.2022, p. 26–63).

^a+ OP: Please insert in the text the number of the Regulation contained in document PE-CONS 40/22 (2020/0322(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

Commented [EGD45]: PRES: some MS requested to extend deadlines in this paragraph 3 but in relation with the IA, to ensure that there are clear methodologies. Also some MS noticed that a deadline in 2026 could be problematic if we take into account the transposition period.

This meant the need to establish a date for the IA and a +2 years deadline for monitoring antimicrobial resistance.

Finally this amendments make sense in order to give consistency with other articles and implementing acts.

Commented [IMS46]: PRES: 'shall' was retaken due to a recommendation of Council Legal Services

Commented [EGD47]: PRES: amendments to this paragraph and the title were suggested by MS. In particular, MS suggested to adapt the wording 'preparing for' to the waste hierarchy stated in art. 4 of D/2008/98

Commented [EGD48]: PRES: several MS did not support the whole delegated act or some aspects of its content. However, an Implementing Act (IA) is not possible to supplement the Directive, which requires a Delegated Act (DA), according to the Council Legal Services.

At the same time, and IA cannot 'promote' what was established. Therefore, the original DA and «setting out» have got back.

PRES amedments are trying to keep the balance between what has been asked by MS and legal possibilities.

'Setting out' was retaken but only for phosphorus and only when applicable and viable. Also only for wastewater or sludge but avoiding conflicts with Article 15 regarding water reuse for irrigation.

economic viability for phosphorus ~~and nitrogen~~ recovery, ~~in sludge and wastewater~~. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Article 21
Monitoring

1. Member States shall ensure that competent authorities, **appropriate bodies or the operator of the wastewater treatment plant**, monitor:
 - (a) discharges from urban wastewater treatment plants ~~in order~~ to verify compliance with the requirements of ~~part~~ **Part B** of Annex I in accordance with the methods for monitoring and evaluation of results laid down in Part D of Annex I ~~and; this monitoring shall include~~ **including** loads and concentrations of the parameters listed in ~~Part B~~ Tables 1, ~~and 2~~ **and 3** of Annex I;
 - (b) amounts, composition and destination of sludge, **taking into account requirements of Directive 86/278/EEC for sludge intended to be used in agriculture;**
 - (c) the ~~destination of the treated urban wastewater including the share of reused water~~ **quantities per year and per month of urban wastewater reused in agriculture that is subject to a derogation referred to in Article 15(2 1); the nutrient content of the fraction reused for agricultural irrigation and the period during which that fraction is reused compared to the monthly water and nutrient demand of the crops targeted by this reused urban wastewater;**
 - (d) the greenhouse gases CO₂, N₂O, CH₄ emitted from urban wastewater treatment plants of ~~above~~ 10 000 p.e. and above, **by means of analysis, calculations or modelling where appropriate;**
 - (e) ~~the greenhouse gases methane produced and~~ the energy used and produced by urban wastewater treatment plants of ~~above~~ 10 000 p.e. **and above.**
2. For all agglomerations of 10 000 p.e. and above, Member States shall ensure that competent authorities, **appropriate bodies or operators of the collecting system** ~~monitor~~ **carry out sufficient representative monitoring of sewer** ~~the concentration and loads of pollutants from storm water overflows and~~ **polluted discharges of** urban runoff ~~discharged~~ into water bodies in order to be able to model the concentration and loads of the parameters listed in Table 1 and 2 of Annex I, ~~as well as the content of microplastics and relevant micropollutants in these discharges.~~

Commented [IMS49]: PRES: a reference to Table 3 was missing in this article, although it was mentioned in art. 9.1.a

Commented [EGD50]: PRES: it has been suggested by some MS that this should be referred to Directive 86/278/EEC and clarify its use in agriculture.

Commented [IMS51]: PRES: clarifications made to give answer to MS concerns on how this is going to be measured.

Commented [EGD52]: PRES: removed 'methane' reference as it was redundant with (d).

Commented [EGD53]: PRES: several MS have expressed doubts about monitoring of microplastics and micropollutants, therefore, some clarifications have been made in Recital 29.

3. For all agglomerations of ~~above~~ 10 000 p.e. **and above**, Member States shall **ensure that competent authorities, appropriate bodies or the operator of the wastewater treatment plant** 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 **that are expected to be found in urban wastewaters** 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 Council²⁰;
 - (iii) Annex II to Regulation (EC) No 166/2006 of the European Parliament and of the Council²¹;
 - (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 microplastics

Commented [EGD54]: PRES: addition oriented to limit the pollutants to be monitored only to those which could be found in the lists below.

[NEW] Pollutants listed under points (a) and (b) may be excluded from the monitoring under this paragraph as long as it can be demonstrated, inter alia on the basis of monitoring results, that they are absent in urban wastewaters.

Commented [EGD55]: PRES: Some MS have expressed that monitoring of parameters not present in their water would suppose an excessive burden and would not be justified

For all agglomerations of above 10 000 p.e., Member States shall **ensure that competent authorities, appropriate bodies or the operator of the wastewater treatment plant** monitor the presence of microplastics in the sludge **when relevant and, notably, when it is reused in agriculture.**

Commented [IMS56]: PRES: Suggested by some MS to ensure protection of environment and health,

4. The monitoring referred to in ~~the first and second sub~~ **this** paragraphs **3** shall be carried out with the following frequencies:

- (a) at least two samples per year, with maximum ~~6~~ **7** months between the samples, for agglomerations of ~~100 000~~ **150 000** p.e. and ~~more~~ **above**;

Commented [EGD57]: PRES: The threshold has been increased to guarantee consistency with other articles

²⁰ Decision No 2455/2001/EC of the European Parliament and of the Council of 20 November 2001 establishing the list of priority substances in the field of water policy and amending Directive 2000/60/EC (Text with EEA relevance) (OJ L 331, 15.12.2001, p. 1).

²¹ Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (Text with EEA relevance) (OJ L 33, 4.2.2006, p. 1).

- (b) at least one sample every ~~2~~ **two** years for agglomerations of between 10 000 p.e. and ~~100 000~~ **150 000** p.e.

[NEW] ~~The This~~ monitoring frequency ~~established in this paragraph~~ may be halved in subsequent years if the monitoring results for the pollutants referred to in ~~this~~ paragraph 3 are below ~~standards applicable~~ **Environmental Quality Standards** under Directive 2008/105/EC ~~or below detection limits or below limits of quantification~~ during the first three **successive** years of the monitoring. The monitoring frequency should be reviewed at least every year.

Commented [EGD58]: PRES: this suggestion tries to reduce the burden of excessive monitoring when the presence of pollutants is irrelevant

- 5.** 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 **greenhouse gas emissions from urban wastewater treatment plants and microplastics** in urban wastewater and sludge. **The Commission will provide the methodologies by [24 months from the entry into force of this Directive].**

Commented [EGD59]: PRES: some MS asked for a deadline to clarify the format of reporting. Also it makes sense to give consistency with IA in other articles.

Article 23

National implementation programme

1. By [OP please insert date = the last day of the ~~twenty-third~~ **thirty-fifth** month after the date of entry into force of this Directive], Member States shall establish a national implementation programme for this Directive.

Those programmes shall include:

- (a) an assessment of the level of implementation of Articles 3 to 8;
 - (b) the identification and planning of investments required to implement this Directive for each agglomeration, including an indicative financial estimation and a prioritisation of those investments related to the size of the agglomeration and the environmental impact of untreated urban wastewater;
 - (c) an estimate of investments needed to renew existing urban wastewater infrastructures, including collecting systems, based on their age and depreciation rates;
 - (d) the identification, or at least an indication, of potential sources of public financing, when needed to complement user charges.
2. By ...[OP: please insert the date = the last day of the ~~thirty-fifth~~ **fortieth** month after the date of entry into force of this Directive], Member States shall submit to the Commission their national implementation programmes, except where they demonstrate, based on the monitoring results referred to in Article 21, that they are in compliance with Articles 3 to 8.

3. Member States shall update their national implementation programmes at least every ~~5~~ **6** years. They shall submit them to the Commission by 31 December, except where they can demonstrate that they are in compliance with Articles 3 to 8.
4. The Commission is empowered to adopt implementing acts establishing the methods and formats for submission of the national implementation programmes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2) **no later than [OP please insert the date = the last day of the sixth month from the date of entry into force of this Directive].**
5. Member States may include in their first national implementation programmes an extension of maximum six years of the following deadlines:
- (a) the deadlines referred to in Article 3(2) and/or in Article 6(2) on the conditions that:
- (i) less than 50 % of these agglomerations are provided with collecting systems and are not subject to secondary treatment as set out in Part B and Table 2 of Annex I on [OP please insert the date=day of entry into force of the Directive]; and
- (ii) the national implementation programme includes:
- the number of agglomerations between 1 000 and 2 000 p.e. that lacks a collecting system and secondary treatment on [OP please insert the date=day of entry into force of the Directive]; and
 - a plan detailing the necessary investments to reach full compliance for these agglomerations within the extended deadlines;
- (b) the deadline for agglomerations referred to in Article 7(3) on the conditions that:
- (i) at least 50 % of these agglomerations are not applying tertiary treatment on [OP please insert the date=day of entry into force of the Directive]; and
- (ii) the national implementation programme includes:
- the number of agglomerations referred to in Article 7(3) lacking tertiary treatment on [OP please insert the date=day of entry into force of the Directive]; and
 - a plan detailing the necessary investments to reach full compliance for these agglomerations within the extended deadlines;

Commented [EGD60]: PRES: MS asked for a deadline.

The extensions of these deadlines shall be effective only if the above-mentioned conditions are fulfilled. The Commission shall notify the Member States if these conditions are not fulfilled by [OP please insert the date=the last day of the sixth month after the deadline referred to in Article 23(2)].

Article 25

Access to Justice

1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned have access to a review procedure before a court of law, or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions or acts or omissions subject to Articles 6, 7 or 8 of this Directive when at least one of the following conditions is met:
 - (a) they have a sufficient interest;
 - (b) they maintain the impairment of a right, where administrative procedural law of a Member State requires this as a precondition.

Standing in the review procedure shall not be conditional on the role that the concerned member of the public played during a participatory phase of the decision-making procedures under this Directive.

The review procedure shall be fair, equitable, timely and not prohibitively expensive, and shall provide for adequate and effective redress mechanisms, including injunctive relief as appropriate.

2. Member States shall determine at what stage the decisions, acts or omissions referred to in paragraph 1 may be challenged.

Article 26
Compensation

1. Member States shall ensure that, where damage to human health has occurred as a result of a violation of national measures that were adopted pursuant to this Directive, the individuals affected have the right to claim and obtain compensation for that damage from the relevant natural or legal persons ~~and, where appropriate, from the relevant competent authorities responsible for the violation.~~
- ~~2. Member States shall ensure that, as part of the public concerned, non-governmental organisations promoting the protection of human health or the environment and meeting any requirements under national law are allowed to represent the individuals affected and bring collective actions for compensation. Member States shall ensure that a claim for a violation leading to a damage cannot be pursued twice, by the individuals affected and by the non-governmental organisations referred to in this paragraph.~~
- ~~3-2.~~ Member States shall ensure that national rules and procedures relating to claims for compensation are designed and applied in such a way that they do not render impossible or excessively difficult the exercise of the right to compensation for damage caused by a violation pursuant to paragraph 1.
- ~~4. Where there is a claim for compensation in accordance with paragraph 1, supported by evidence from which a causality link may be presumed between the damage and the violation, Member States shall ensure that the onus is on the person responsible for the violation to prove that the violation did not cause or contribute to the damage.~~
- ~~5-3.~~ Member States ~~shall ensure that~~ **may establish** ensure that the limitation periods for bringing actions for compensation referred to in paragraph 1 ~~are not shorter than 5 years~~. Such periods shall not begin to run before the violation has ceased and the person claiming the compensation knows **or can reasonably be expected to know** that he or she suffered damage from a violation pursuant to paragraph 1.

Article 27
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 4(3), ~~6(3)~~, 7(4), 8(5), 14(3), 20(2), and 24(3) shall be conferred on the Commission for a period of five years from [OP please

Commented [LMM61]: These references should be updated in a further stage, according to the progress of the negotiations

insert the date = the date of entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 4(3), ~~6(3)~~, 7(4), 8(5), 14(3), 20(2), and 24(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 4(3), ~~6(3)~~, 7(4), 8(5), 14(3), 20(2), or 24(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Commented [LMM62]: These references should be updated in a further stage, according to the progress of the negotiations

Commented [LMM63]: These references should be updated in a further stage, according to the progress of the negotiations

Article 28

Committee

1. The Commission shall be assisted by the committee for the adaptation to scientific and technical progress and implementation of the directive on urban wastewater treatment.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 29

Penalties

1. **Without prejudice to the obligations of Member States under Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law**, Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. ~~They shall include, as appropriate, financial penalties proportionate to the turnover of the legal person or to the salary of the natural person having committed the breach, taking into account specificities of Small and Medium Enterprises.~~
2. Member States shall ensure that the penalties established pursuant to this Article give due regard to the following, as applicable:
 - (a) the nature, gravity, and extent of the ~~violation~~ **infringement**;
 - ~~(b) the intentional or negligent character of the violation;~~
 - ~~(e)~~ **(b)** the population or the environment affected by the ~~violation~~ **infringement**, bearing in mind the impact of the infringement on the objective of achieving a high level of protection of human health and the environment.
 - (c) the repetitive or singular character of the infringement;**
3. Member States shall without undue delay notify the Commission of the rules and measures referred to in paragraph 1 and of any subsequent amendments affecting them.

Article 30

Evaluation

1. By 31 December 2030 and by 31 December 2040, the Commission shall carry out an evaluation of this Directive based in particular on the following elements:
 - (a) the experience gained through the implementation of this Directive;
 - (b) the data sets referred to in Article 22(1);
 - (c) relevant scientific, analytical and epidemiological data, including results from research projects funded by the Union;
 - (d) WHO recommendations, where available;

- (e) an analyse of the possible need to adapt the list of products to be covered by extended producer responsibility to the evolution of the range of products placed on the market, improved knowledge on the presence of micro-pollutants in wastewaters and their impacts on public health and the environment, and data resulting from the new monitoring obligations on micro-pollutants in the inlets and outlets of the urban wastewater treatment plants.

The Commission shall present a report on the main findings of the evaluation referred to in the first subparagraph to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions.

2. Member States shall provide the Commission with the information necessary for the preparation of the report referred to in paragraph 1, second subparagraph.

Article 31

Review

Every five years, the Commission shall present a report to the European Parliament and the Council on the implementation of this Directive, accompanied, where the Commission finds it appropriate, by relevant legislative proposals.

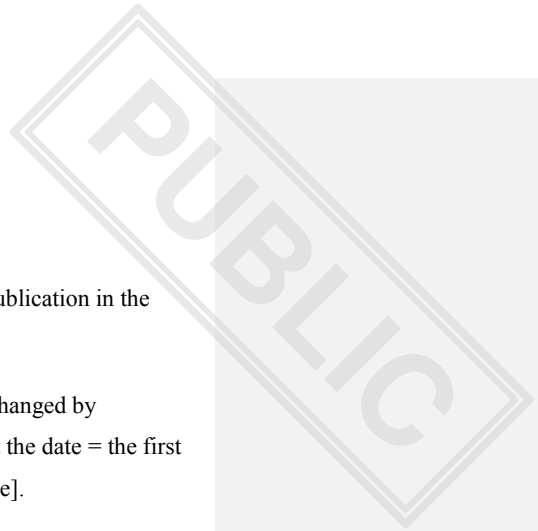
Article 33

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles [...] and Annexes [...] [refer to the articles and annexes which have been amended in substance by comparison with the repealed Directives] by [OP please insert the date = the last day of the twenty-third month after the date of entry into force of this Directive]. They shall immediately communicate the text of those measures to the Commission.

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

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



Article 34

Entry into force

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

Articles [...] and Annexes [...] [refer to the articles and annexes which are **unchanged** by comparison with the repealed Directive] shall apply from [...] [OP please insert the date = the first day of the twenty-fourth month after the date of entry into force of this Directive].

Article 35

Addressees

This Directive is addressed to the Member States.

• Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX +I
REQUIREMENTS FOR URBAN WASTEWATER

A. COLLECTING SYSTEMS

Collecting systems shall take into account wastewater treatment requirements.

The design, construction and maintenance of collecting systems shall be undertaken in accordance with the best technical knowledge not entailing excessive costs, notably regarding:

- volume and characteristics of urban wastewater,
- prevention of leaks **of wastewater**,
- **prevention of inflow and infiltration into the collecting systems**,
- limitation of pollution of receiving waters due to ~~storm-water sewer~~ overflows **considering the relevant requirements in Article 5 and annex V.**

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 **serving agglomerations referred to in subject to treatment in accordance with** Articles 6, 7 and 8 shall meet the requirements shown in Table 1 **of this Annex.**
3. Discharges from urban wastewater treatment plants referred to in ~~paragraph 1 and 3~~ Article 7(1) **or serving agglomerations referred to in Article 7(3) 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) **or serving agglomerations and included in the list referred to in Article 8(24)** shall, in addition to the requirements referred to in points 2 and 3, meet the requirements set out in Table 3 **of this Annex.**
5. Authorisations **and/or regulations** for discharges from urban wastewater treatment plants using plastic biomedica shall include an obligation to ~~permanently~~ monitor and prevent ~~all unintentional~~ such biomedica **from being released into receiving waters the environment.**

Commented [EGD64]: PRES: Added for consistency with article 14. Several amendments through the whole Annex have been made

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.

C. PRIOR REGULATIONS AND/OR SPECIFIC AUTHORISATIONS FOR DISCHARGE OF NON-DOMESTIC WASTEWATER

1. The ~~prior general binding rules~~ **prior regulations and/or** specific authorisations referred to in Article 14(1) shall ensure the following:

- (a) the polluting substances contained in the non-domestic wastewater do not impede the operation of the wastewater treatment plant, do not damage collecting systems, wastewater treatment plants and associated equipment and do not prevent the reuse of treated water and the recovery of ~~sludge~~ **nutrients or other materials from urban wastewater or sludge**;
- (b) the polluting substances contained in the non-domestic wastewater do not harm the health of the staff working in collecting systems and urban wastewater treatment plants;
- (c) the polluting substances contained in the non-domestic wastewater can be abated by the urban wastewater treatment plant ~~except those resulting from the natural degradation of organic matter producing toxic substances~~;
- (d) where an urban wastewater treatment plant treats discharges from an installation holding a permit referred to in Article 4 of Directive 2010/75/EU, the pollutant load from the discharges of that plant does not exceed the pollutant load that would be discharged if the discharges were released directly from the installation and were compliant with the emission limit values **applicables according to this Directive** ~~set in accordance with Article 15(3) of that Directive and any additional measures taken in accordance with Article 18 of that Directive~~;
- (e) the pollutant load in the discharge from the urban wastewater treatment plant does not deteriorate the ~~good ecological status or potential or good chemical~~ status of the receiving water body, in accordance with the objectives set out in Article 4 of Directive 2000/60/EC.

Commented [EGD65]: PRES: broaden scope in order to give consistency with the whole text, as suggested by MS.

Commented [EGD66]: PRES: this clarification has been deleted.

Commented [EGD67]: PRES: Discharges cannot deteriorate the status in any way

2. ~~The specific authorisation shall include an annex, which documents the fulfilment of all the conditions set out in point 1. The provisions of the specific authorisations shall be updated in~~

~~the cases where the characteristics of the non-domestic wastewater, of the urban wastewater treatment plant or of the receiving water body change significantly to ensure that those conditions remain fulfilled.~~

D. METHODS FOR MONITORING AND EVALUATION OF RESULTS

1. Member States shall ensure that a monitoring method is applied which fulfils the requirements set out in points 2 to 5. **All methods of analysis shall comply with minimum performance criteria as the ones defined in the Directive 2009/90/EC and other relevant rules.**

Alternative methods to those referred to in points 2, 3 and 4 may be used provided that it can be demonstrated that equivalent results are obtained.

Member States shall provide the Commission with all relevant information concerning the applied monitoring method.

2. Flow-proportional or time-based 24-hour samples shall be collected at the same well-defined point in the outlet and, if necessary, in the inlet of the urban wastewater treatment plant. However, any time-based samples used to monitor micro-pollutants shall be 48-hour samples.

Good international laboratory practices aiming at minimizing the degradation of samples between collection and analysis shall be applied.

3. The minimum annual number of samples shall be determined according to the size of the treatment plant and be collected at regular intervals during the year:

— 1000 to 9 999 p.e.:	One sample per month (see Note 1)
— 10 000 to 49 999 p. e.:	Two samples per month For micropollutants, one sample per month
— 50 000 to 99 999 p.e. or above	One sample per week. For micropollutants, two samples per week month
— 100 000 p.e. or over:	One Two sample per day week For micropollutants, two one samples per week

Note 1: For agglomerations concerned by seasonal activity, intervals of maximum two months without sampling are accepted provided that additional samples are taken during the months of seasonal activity. A total of 12 samples shall be taken throughout the year.

4. The treated urban wastewater shall be assumed to conform to the relevant parameters if, for each relevant parameter considered individually, samples of the water show that it complies with the relevant parametric value in the following way:

- (a) for the parameters specified in Table 1, a maximum number of samples which are allowed to fail the requirements, expressed in concentrations and/or percentage reductions, is specified in Table 4;
 - (b) for the parameters of Table 1 expressed in concentrations, the failing samples taken under normal operating conditions must not deviate from the parametric values by more than 100 %, except for the parameter total suspended solids, for which deviations from the parametric values of up to 150 % may be accepted;
 - (c) 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. One or both parameters may be applied depending on the local situation. The values for concentration or for the minimum percentage of reduction shall apply;
 - (d) for the parameters specified in Table 3, each sample taken shall be conform to the parametric values set out in that table.
5. The samples shall be taken so that they reflect the pollution during dry weather **flow conditions**. Extreme values for the water quality in question shall not be taken into consideration when they are the result of unusual situations due to heavy rain.
6. Analyses concerning discharges from lagooning shall be carried out on filtered samples; however, the concentration of total suspended solids in unfiltered water samples of such discharges shall not exceed 150 mg/l.

Table 1: Requirements for discharges from urban wastewater treatment plants subject to Article 6 of the Directive. The values for concentration or for the percentage of reduction shall apply.			
Parameters	Concentration	Minimum percentage of reduction (see Note 4) ²²	Reference method of measurement
Biochemical oxygen demand (BOD5 at 20 °C) without nitrification (see Note 1)	25 mg/l O ₂	70-90 40 under Article 4 (2) 40 under Article 6(3)	Homogenized, unfiltered, undecanted sample. Determination of dissolved oxygen before and after five-day incubation at 20 °C ± 1 °C, in complete darkness. Addition of a nitrification inhibitor
Chemical oxygen demand (COD) (See Note 2)	125 mg/l O ₂	75	Homogenized, unfiltered, undecanted sample Potassium dichromate
Total Organic Carbon (See Note 2)	37 mg/l	75	EN 1484
Total suspended solids	35 mg/l (see Note 3)	90 (see Note 3)	– Filtering of a representative sample through a 0,45 µm filter membrane. Drying at 105 °C and weighing – Centrifuging of a representative sample (for at least five mins with mean acceleration of 2800 to 3200 g), drying at 105 °C and weighing

Commented [IMS68]: PRES: this should be reintroduced because of the reintroduction of the altitude derogation for article 6, as requested by some MS

Note 1: The parameter can be replaced by another parameter: total organic carbon (TOC) or total oxygen demand (TOD) if a relationship can be established between BOD5 and the substitute parameter.

Note 2: Member States shall measure either the Chemical oxygen demand (COD) or the Total Organic Carbon.

Note 3: This requirement is optional.

Note 4: Reduction in relation to the load of the influent.

²² — Reduction in relation to the load of the influent.

Table 4: **Requirement for samples**

Series of samples taken in any year	Maximum permitted number of samples which fail to conform
4-7	1
8-16	2
17-28	3
29-40	4
41-53	5
54-67	6
68-81	7
82-95	8
96-110	9
111-125	10
126-140	11
141-155	12
156-171	13
172-187	14
188-203	15
204-219	16
220-235	17
236-251	18
252-268	19
269-284	20
285-300	21
301-317	22
318-334	23
335-350	24
351-365	25

ANNEX 4 IV
INDUSTRIAL SECTORS

1. Milk-processing
2. Manufacture of fruit and vegetable products
3. Manufacture and bottling of soft drinks
4. Potato-processing
5. Meat industry
6. Breweries
7. Production of alcohol and alcoholic beverages
8. Manufacture of animal feed from plant products
9. Manufacture of gelatine and of glue from hides, skin and bones
10. Malt-houses
11. Fish-processing industry

ANNEX 5 V

CONTENT OF THE INTEGRATED URBAN WASTEWATER AND POLLUTED URBAN RUNOFF MANAGEMENT PLANS

Commented [EGD59]: PRES: editorial change according to Article 5 title and rest of the paragraphs for consistency

1. An analysis of the initial situation of the ~~drainage~~ catchment ~~drainage~~ area of the urban wastewater treatment plant of the concerned agglomeration, including at least the following:
 - (a) a detailed description of the network of collecting systems, the urban wastewater and urban runoff storage **and conducting** capacities of that network and the existing urban wastewater treatment capacities in case of rainfall;
 - (b) a dynamic analysis of the flows of urban runoff, polluted urban runoff and urban wastewaters in case of rainfall based on the use of hydrological, hydraulic and water quality models that take into account state-of-the-art climate projections and including an estimate of the pollution loads **of the parameters referred to in Tables 1 and, where relevant, Table 2 of Annex I as well as microplastics and relevant micropollutants** released in receiving waters in case of rainfall;
2. Objectives for the reduction of pollution from ~~storm-water sewer~~ overflows and polluted discharges of urban runoff discharges, including the following:
 - (a) an ~~indicative~~ **indicative** objective that ~~storm-water sewer~~ overflow; represents **only no more than 1 % a small percentage, preferably below one 2 % percent**, of the annual collected urban wastewater load calculated in dry weather conditions;

This ~~indicative target objective shall~~ **should** be met by:

 - (i) 31 December ~~2035~~ **2040** for all agglomerations of 100 000 p.e. and above;
 - (ii) 31 December ~~2040~~ **2045** for agglomerations of 10 000 p.e. **and above referred to and above identified in accordance with paragraph 2 of Article 5(2);**
 - (b) the progressive **reduction of pollution load from** ~~elimination of untreated~~ discharges of urban runoff through separate ~~sewer collection networks~~, unless it can be demonstrated that those discharges do not cause adverse impacts on the **water** quality **requirements of other Union legislation of receiving waters**;
 - (c) **the progressive reduction of macroplastics in sewer overflow and discharges of urban runoff.**

3. The measures to be taken to achieve the objectives referred to in point 2 accompanied with a clear identification of the actors involved and their responsibilities in the ~~implementation~~ **implementation** of the integrated plan.
4. When assessing which measures to be taken under point 3, Member States shall ensure that their competent authorities consider at least the following:
- (a) firstly, preventive measures aiming at avoiding the entry of unpolluted rain waters into collecting systems, including measures promoting natural water retention or rainwater harvesting, and measures increasing green spaces or limiting impermeable surfaces in the agglomerations;
 - (b) secondly, measures to better manage and optimize the use of existing infrastructure including collecting systems, storage volumes, urban wastewater treatment plants with the aim to ensure that polluted rain waters are collected and treated, and releases of untreated urban wastewater into receiving waters are minimised;
 - (c) finally, where necessary to achieve the objectives referred to in point 2, additional mitigation measures including the adaptation of the infrastructure for the collection, storage and treatment of urban wastewater or the creation of new infrastructures with a priority to green infrastructure such as vegetated ditches, treatment wetlands and storage ponds designed in order to support biodiversity. Where relevant, water reuse shall be considered in the context of the development of the integrated urban wastewater management plans referred to in Article 5.
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