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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	12537/18
N° Cion doc.:	9617/18 - COM(2018) 381 final
Subject:	Environmental reporting alignment: Revised Presidency compromise text - comments from delegations

Following the WPE meeting on 5 October and the request for comments (WK 11767/2018 INIT), delegations will find attached comments received from CZ, DK, DE, ES, IT, LV, PL, SE and UK on the revised Presidency compromise text (doc. 12537/18).

CZECH REPUBLIC

Article 3: ELD: We find that the proposed changes reduce the scope of the reporting to such extent that the information provided will be very limited. It is our concern that such reporting will have little added value, while imposing administrative burden on Member States. In this context, CZ is of the opinion that the ELD should not be covered by this Directive (if proposed wording is maintained).

Article 8: Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market and

Article 9: Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community

After further consideration, CZ can support the PRES proposal, although we would prefer the original wording in relation to the implementing act: "The Commission **may** establish...".

It leaves more flexibility for agreement between MS and EC as regards the reporting format and procedure.

DENMARK

Article 6
Amendments to Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes

Para 43(3) "Member States shall ~~submit and~~ publish ~~for publication~~ the non-technical project summaries, at the latest within 6 months of authorisation, and any updates thereto, ~~by electronic transfer to the Commission~~."

Para "43(4): ~~"4. The Commission shall establish a common format for submitting the information referred to in paragraphs 1 and 2 in accordance with the regulatory procedure referred to in Article 56(3). The Commission services shall establish and maintain a searchable, open access database on non-technical project summaries and any updates thereto."~~

Article 7
Amendments to 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

Article 11
Confidentiality
Whenever information is considered confidential by a Member State in accordance with Article 4 of Directive 2003/4/EC of the European Parliament and of the Council*, the report referred to in Article 7(2) of this Regulation for the reporting year concerned shall indicate separately for each facility which information cannot be made public and why. **That reason shall be made public**.

GERMANY

Comments on Article 1 (Directive 86/278/EEC "sewage sludge directive")

The data according to Article 10 paragraph 1 does not need to be centrally stored electronically, but only made available in a consolidated form according to Article 10 paragraph 2 sentence 1. Therefore Article 10 paragraph 2 sentence 2 must be "*Member States shall submit to the Commission the electronic location of the information made publicy available.*"

A publication of the data is possible in Germany only with a change of the legal bases and a realignment of the data systems. A sufficient implementation time is therefore necessary. An electronic survey of the data is possible at the earliest for the year 2022.

Comments on Article 3 (Directive 2004/35/EC "Environmental liability directive")

Germany keeps its position that a deletion of Article 3 is the appropriate solution, because the administrative burden of the Commission's proposal and as well of the Revised Presidency compromise text (but on a lower level) is much too high. In this context we reiterate our earlier observation, that the "*ELD causes currently no administrative costs related to information obligations. According to a first rough estimate, the introduction of new information requirements* [by the Commission's proposal] *will result in a one-off administrative expense of approx. 27 million EUR throughout the EU and ongoing compliance costs for administration of approx. 2.7 million EUR and for business of approx. 16.2 million EUR throughout the EU. This estimate is based on the numbers of ELD cases published by the COM until today.*"

Following the WPE meeting on 5.10.2018 we disagree with the Commission's remarks, because e.g. "imminent threats" in the current ELD never have been a topic for reporting by Member States.

In conclusion: A voluntary system of reporting on ELD cases as envisaged by the Commission's Expert Group is the best way to proceed.

Comments on Article 4 (Directive 2007/2/EC "Infrastructure for Spatial Information in the European Community")

Germany still considers it necessary to delete the enumeration in Article 21 paragraph 2 letter a) to (e) for the three-year notifications. Details as given in the enumeration have to be given in the implementing rules for monitoring and reporting. In Article 21 paragraph 2 reference should only be made to the reporting source. These are the national metadata and organisational information.

Therefore, Article 21 paragraph 2 of Directive 2007/2/EC needs to be amended by Article 4 of the Directive on the alignement-Directive as follows:

"1. Article 21 is amended as follows
(a) paragraph 2, has to be replaced by the following paragraph:
2. No later than 31 March every year Member States shall update if necessary and publish their summary report ***based on metadata and organisational information****. This report~~, which~~ shall be made public by the Commission services assisted by the European Environment Agency~~, shall include summary descriptions of:~~.*
~~*(a) how public sector providers and users of spatial data sets and services and intermediary bodies are coordinated, and of the relationship with the third parties and of the organisation of quality assurance;*~~
~~*(b) the contribution made by public authorities or third parties to the functioning and coordination of the infrastructure for spatial information;*~~
~~*(c) information on the use of the infrastructure for spatial information;*~~
~~*(d) data-sharing agreements between public authorities;*~~
~~*(e) the costs and benefits of implementing this Directive*~~*.*

Comments on Article 5 (Directive 2009/147/EC "conservation of wild birds"

Germany maintains its position that no change of Art. 12 is needed.

If there is a wish to amend art. 12 then the new regulation should build on what is current practice and should not set up new requirements.

Germany requests the deletion of the words "and the evaluation of the impact of those measures on the conservation status" in sentence 2. The sentence is superfluous as sentence 1 already requests to report about the main impacts of these measures.

Germany requests the deletion of the words "and the contribution of the network of Special Protection Areas to the objectives laid out in Article 2 of this Directive." There is no sense in such a reporting. Reporting on the relationship between SPAs and the objectives laid out in Article 2 would have no consequences. If the contribution is good, no SPA could be abolished; if a contribution cannot be established this can have a variety of reasons. If there is no significant contribution to Article 2 this would have no consequences to the obligations under Article 3 or 4 of the directive.

Germany requests the deletion of the sentences allowing for a new implementation act: "The Commission shall, by means of an implementing act, lay down rules for the format of the reports under paragraph 1. Those implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2)." There is no need for such an act. Member States agreed on a proper format in the last decades without further rules.

"1. Member States shall forward to the Commission every six years, ~~at~~ **in** the same ~~time~~ **year** as the report drawn up pursuant to Article 17 of Council Directive 92/43/EEC*, a report on the implementation of the measures taken under this Directive and the main impacts of these measures. This report shall include in particular information concerning the **conservation measures taken for** ~~status **population size** and trends of~~ wild bird species protected by this Directive~~, the threats and pressures on them,~~ **and** ~~the **evaluation of the impact of those measures on the conservation status** conservation measures taken for them and the contribution of the network of Special Protection Areas to the objectives laid out in Article 2 of this Directive.";~~

~~**The Commission shall, by means of an implementing act, lay down rules for the format of the reports under paragraph 1. Those implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).**~~

ITALY

- Art. 1 – Council Directive 86/278/EEC

A period of nine months for making records available to the public in consolidated format for each calendar year (art.1.2), is still incompatible with the transmission and processing time needed.

As already expressed, we request an increase of this time frame.

- Art. 3

In accordance with points 9 and 25 of the European Parliament Resolution of 26 October 2017 on the application of Directive 2004/35/EC (2016/2251 (INI)), and with the results of the ELD Refit Evaluation SW (2016) 121, we believe that the concept of "significance threshold", as the main constitutive element of the definition of environmental damage (see art. 2 paragraph 1 of the ELD Directive), must be better clarified and defined.

This clarification should be preliminary, and necessary, in order to standardize the application of the ELD, making it uniform in all Member States, and for proper reporting activities.
In this context, the lack of a clear definition of "significance threshold" under the ELD Directive will affect, statistically, the nature and type of data that, under the proposed revision of Article 18 and Annex VI of the ELD Directive, Member States will have to provide.

Moreover, the different threshold of significance of environmental damage adopted by Member States will hardly allow the Commission to achieve those results, exposed in the Explanatory Memorandum attached to the text of the proposal, to "provide the Commission with the required evidence base enable a proper evaluation in relation to the purpose and performance of the Directive.

Indeed, it is not clear how the availability of data provided by Member States – if not provided on a uniform basis – can contribute to the objectives of the standardization of the ELD Directive and to effective reporting activities.

Therefore, we believe – according with the position already expressed by other Member States during the previous WPE meeting – that further studies should be previously conducted within the work Governmental ELD Experts Group, in line with the objectives of the Multi annual work program 2017 – 2020 and that this article should be deleted from the proposal.

As for the Presidency compromise text (12537/18), in particular, we also note that the reporting obligations for environmental damage must be, in any case, limited to cases that fall within the scope of the ELD Directive.

In this context, the definition of "cases involving environmental damage" contained in Annex VI paragraph 1 of the Presidency compromise text appears uncertain, and must be, more appropriately, replaced with "cases of environmental damage" (see art. 18 paragraph 2 of the Presidency compromise text, in accordance with article 6 paragraph 2 of the ELD Directive).

We also note that, even if the Presidency compromise text only refers to cases of environmental damage, the reference to the "prevention measures" in paragraph 4 of Annex VI is incorrect, being related to the different case of "imminent threat of environmental damage" (see article 2 paragraph 10 of the ELD Directive).

Furthermore, it also creates concern the request to indicate, "whether and when liability proceedings were commenced" (see paragraph 3 of Annex VI of the Presidency compromise text).

In fact, we wonder if a contested case of environmental damage in Court (under civil, criminal or administrative Law), might be correctly reported by the competent authority and made available as a case of environmental damage in an open data source, before a judgment or a final court decision regarding the existence of an environmental damage according to the ELD Directive is taken.
In the aforementioned cases, we also note that possible profiles of conflicts with the rules on privacy policy seem to emerge, in case of publication of these cases in an open data source, as required by the proposed Regulation (see, for instance, the exemption provided by art. 4 paragraph 2 c of Directive 2004/3/CE).

- Art. 7 – CE 166/2006

We confirm our concerns already expressed during the WPEs, regarding especially art. 7.2.

Just knowing that annex III is going to be deleted and that new reporting schemes are going to be defined through implementing acts. A draft of the implementing acts regarding the modifications of the EPRTR reporting scheme would be useful in order to agree on the proposed amendment.

A period of 11 months for the reporting does not seem feasible.

SPAIN

Article 1

Spain has some issues concerning the proposal of the amendments to Council Directive 86/278/EEC of 12 June 1986 on the protection of environment, and in particular of the soil, when sewage sludge is used in agriculture:

- Spain is concerned by making publicly available private data (names, addresses and locations) and industrial data (quantities of sludge produced in agroindustry waste water treatment plants). Spain is concerned about this requirement is in line with General Data Protection Regulation.

- Regarding the requirement to make information publicly available, Spain considers that a clarification is needed regarding the data required in article 10.1.d of the Directive 86/278/EEC under "the names and addresses of the recipients of the sludge". It is not clear what data shall MS provide in this point:

  a) Is it the name and address of the recipient (farmer) of the sludge linked to the geographical coordinates of the sites where sludge is deposited? , or

  b) Is it the name and address of the recipient (farmer) of the sludge and the geographical coordinates of the sites where sludge is deposited in two independent layers?

In our opinion to represent the name and address of recipients without linking them to the geographical coordinates of the sites where sludge is deposited does not make sense.

- Regarding records that shall be made available to the public and particularly regarding the names and addresses of the recipients of the sludge and the place where the sludge is to be used, is it possible to have more information on what level of detail is asked for?

- In order to organize the electronic data availability, we consider that a transitional time period should be left to MS. A transitional time period of three years could be adequate.

Article 3: Amendments to Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage

Premises for accepting an amendment:

1. The reporting obligations must cover only information on instances (or cases) of environmental damage that are under the scope of Directive 2004/35/CE, that is to say, significant damages.

   The European Commission tried to include in the amendment of the directive, the obligation of reporting information on non-ELD cases, and that can not be accepted, since it is outside the scope of the directive.

The European Commission is also following this approach within the activities of the Multiannual Working Plan 2017-2020, by drafting (through a contract with a consultancy) "country fiches" for all Member States, that includes both ELD and non-ELD incidents. The information on non-ELD incidents has not been gathered in a systematic way, and the sources of information does not specify if the incidents caused damage to the environment or only to property and persons. This results in a biased and incomplete view, and makes impossible to obtain any realistic conclusions.

Spain, as other Member States, has sent comments on this issue, asking the European Commission not to include information on non-ELD cases, for the reasons given above. But the European Commission insists in including this information in the Country Fiches that intends to publish on his web page, as a kind of "parallel or informal reporting".

2. The evaluation of the Directive cannot be based only on the number of cases of environmental liability. This only allows an incomplete and incorrect evaluation of the "polluter-pays principle", since it is assumed that the higher the number of ELD cases, the better the directive is implemented. On the contrary, the primary objective of the directive is to prevent the occurrence of cases of environmental damage, so a low number of ELD cases could also be evaluated as a successful implementation of the directive, due to the implementation of the prevention principle. The European Commission in the REFIT report of the directive recognised that the directive has a deterrent effect, but this is difficult to evaluate.

   As Spain has pointed out several times in the ELD Experts meetings, there are other elements that apply to the implementation of the prevention principle, that must be taken into account in the evaluation or the directive. For example the performance of environmental risk analysis by sectors/operators, the implementation of a mandatory financial security scheme (or information on voluntary financial security instruments), the development of technical instruments, guidance documents, procedures, etc. This is specially relevant in the case of Spain, and the European Commission has recognised the efforts made by Spain in de development of these issues.

3. Instead of the approach that Member States have to make available to the public the information, the alternative text refers to reporting obligations. The obligation to make to the public the information on instances of damage, has economic implications we do not know (the EC has not carried out a proper economic impact assessment). In addition, in Law 26/2007, it is made clear that the application of this law is notwithstanding the application of the civil protection legislation, based on which the public is informed in case of threat to the citizens. In addition, public access to the information is already guaranteed.

Alternative text:

Directive 2004/35/EC is amended as follows:

1. Article 14(2) is deleted;

2. Article 18 is replaced by the following:

Article 18

Information on implementation and evidence base

Member States shall report to the Commission on the experience gained in the application of this Directive by 30 April 2021 at the latest, and subsequently every 4 years ~~ensure that**, as it is available to competent authorities,** adequate and up-to-date information, at least on imminent threats **on cases** of **environmental** damage is **made** available to the public in an open data format online, in accordance with Annex VI of this Directive and with Article 7(4) of Directive 2003/4/EC of the European Parliament and of the Council*. For each **case** incident, the information listed in Annex VI of this Directive shall be provided as a minimum.~~ The reports shall include the information and data set out in Annex VI.

Commented [SNI1]: Based on the current text of art. 18.1, including a revision of the reporting obligations of Member States.

This change is proposed because:

-The obligation to make available to the public the information on cases, have implications we can not measure in costs.
-The evaluation of the directive cannot be based only on the number of cases, and this other information can not be made available as spatial data sets.

2. Spatial data services as defined in Article 3(4) of Directive 2007/2/EC of the European Parliament and of the Council** shall be used to present the spatial data sets, such as the spatial location of ~~incidents **cases**~~instances, reported by Member States~~included in the information referred to in paragraph 1 of this Article~~.

3. The Commission services shall publish a Union-wide overview including maps on the basis of the data made available by the Member States pursuant to paragraph 1.

4. The Commission shall, ~~at regular intervals~~, **every five years,** carry out an evaluation of this Directive. The evaluation shall be based, inter alia, on the following elements:

(a) ~~the experience gathered with the implementation of this Directive~~Elements that allows the evaluation of the prevention principle~~;~~

(b) ~~the spatial data sets from Member States set up in accordance with this Article and the related Union-wide overviews under paragraph 3~~Elements that allows the evaluation of the 'polluter pays' principle.

~~* Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information (OJ L 41, 14.2.2003, p. 26).~~

** Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)(OJ L 108, 25.4.2007, p. 1).';

3. Annex VI is replaced by the following:

'ANNEX VI

INFORMATION AND DATA REFERRED TO IN ARTICLE 18(1)

The information referred to in Article 18(1) shall refer to:

a) Elements that allows the evaluation of the prevention principle, including information on the implementation of environmental risk analysis, development of technical instruments and guidance documents, the fostering of risk management measures, and awareness raising activities.

b) Elements that allows the evaluation of the 'polluter pays' principle, including information on the contribution of financial security instruments, and information on instances ~~cases~~ ~~emissions, events or incidents causing~~ ~~involving~~ of environmental damage or imminent threat of damage, with the following information and data for each instance:

1. ~~scale and~~ type of environmental damage, date of occurrence and/or discovery of the damage. ~~The scale of environmental damage shall be classified as small, medium, large or very large~~. The type of environmental damage shall be classified as damage to **protected species and natural habitats,** water, marine environment**, and land as referred to in Art. 2 (1)** ~~soil, nature/ecosystems or damage to human health caused by pollution~~;

2. **description of the** activity which has caused the environmental damage, including, where ~~the damage falls within the scope of this Directive~~ **relevant**, the activity classification in accordance with Annex III;

3. whether and when liability proceedings were commenced, including under which legal regime (administrative, civil, criminal liability) ~~and in particular whether such a liability proceeding was commenced under this Directive~~;

4. whether and when preventive and/or remedial action was ~~commenced in particular whether such preventive and/or remedial action was commenced under this Directive~~;

~~5. once available, the dates when the proceedings and prevention and/or remedial actions under points 3 and 4 were closed or finished;~~

~~6. outcome of the remediation process, with particular regard to any primary, complementary and/or compensatory remediation under this Directive, where applicable;~~

~~7. costs incurred in relation to the following:~~

~~(a) prevention and remediation measures, which may be either of the following:~~

~~(i) paid by or recovered from the liable party;~~

~~(ii) unrecovered from the liable party;~~

~~(b) precautionary measures of operators for any of the following:~~

~~(i) financial security cover;~~

~~(ii) environmental management or environmental safety systems;~~

~~(iii) introduction of pollution abatement or mitigation technology;~~

~~(c) administrative requirements of:~~

~~(i) operators;~~

~~(ii) competent authorities.'~~

Last proposal (5 October 2018)

Directive 2004/35/EC is amended as follows:

1. Article 14(2) is deleted;

2. Article 18 is replaced by the following:

Article 18

Information on implementation and evidence base

Member States shall ensure that**, as it is available to competent authorities,** adequate and up-to-date information, ~~at least on imminent threats~~ **on cases** of **environmental** damage is **made** available to the public in an open data format online, in accordance with Annex VI of this Directive and with Article 7(4) of Directive 2003/4/EC of the European Parliament and of the Council*. For each **case** ~~incident~~, the information listed in Annex VI of this Directive shall be provided as a minimum.

2. Spatial data services as defined in Article 3(4) of Directive 2007/2/EC of the European Parliament and of the Council** shall be used to present the spatial data sets, such as the spatial location of ~~incidents~~ **cases**, included in the information referred to in paragraph 1 of this Article.

3. The Commission services shall publish a Union-wide overview including maps on the basis of the data made available by the Member States pursuant to paragraph 1.

4. The Commission shall, ~~at regular intervals~~, **every five years,** carry out an evaluation of this Directive. The evaluation shall be based, inter alia, on the following elements:

(a) the experience gathered with the implementation of this Directive;

(b) the spatial data sets from Member States set up in accordance with this Article and the related Union-wide overviews under paragraph 3.

* Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information (OJ L 41, 14.2.2003, p. 26).

** Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)(OJ L 108, 25.4.2007, p. 1).';

3. Annex VI is replaced by the following:

'ANNEX VI

INFORMATION AND DATA REFERRED TO IN ARTICLE 18(1)

The information referred to in Article 18(1) shall refer to **cases** ~~emissions, events or incidents causing~~ **involving** environmental damage or imminent threat of damage, with the following information and data for each instance:

1. ~~scale and~~ type of environmental damage, date of occurrence and/or discovery of the damage. ~~The scale of environmental damage shall be classified as small, medium, large or very large~~. The type of environmental damage shall be classified as damage to **protected species and natural habitats,** water, marine environment**, and land as referred to in Art. 2 (1)** ~~soil, nature/ecosystems or damage to human health caused by pollution~~;

2. **description of the** activity which has caused the environmental damage, including, where ~~the damage falls within the scope of this Directive~~ **relevant**, the activity classification in accordance with Annex III;

3. whether and when liability proceedings were commenced, including under which legal regime (administrative, civil, criminal liability) ~~and in particular whether such a liability proceeding was commenced under this Directive~~;

4. whether and when preventive and/or remedial action was ~~commenced in particular whether such preventive and/or remedial action was commenced under this Directive~~;

~~5. once available, the dates when the proceedings and prevention and/or remedial actions under points 3 and 4 were closed or finished;~~

~~6. outcome of the remediation process, with particular regard to any primary, complementary and/or compensatory remediation under this Directive, where applicable;~~

~~7. costs incurred in relation to the following:~~

~~(a) prevention and remediation measures, which may be either of the following:~~

~~(i) paid by or recovered from the liable party;~~

~~(ii) unrecovered from the liable party;~~

~~(b) precautionary measures of operators for any of the following:~~

~~(i) financial security cover;~~

~~(ii) environmental management or environmental safety systems;~~

~~(iii) introduction of pollution abatement or mitigation technology;~~

~~(c) administrative requirements of:~~

~~(i) operators;~~

~~(ii) competent authorities.'~~

Article 6

ART. 43 paragraph 2

Member States may require the non-technical Project summary to specify whether a project is to undergo a retrospective assessment and by what deadline shall be updated the non-technical summary.

ART. 43 paragraph 3

Delete the proposed amendments, to maintain the wording of current paragraph 3 of Art. 43

Art. 43 paragraph 3

Delete the proposed amendments, or alternatively, to introduce an impact assessment before deciding to introduce a new system

The Commission shall, in consultation with member states and stakeholders, conduct a feasibility study, on the need and usefulness of a database of non-technical summaries at EU level. The study shall be published no later than ….."

Regarding articles 8 and 9, Spain can support the compromise text of the Presidency if the proposed change is maintained: "SHALL" instead of "MAY"

LATVIA

We would like to express strong support for the AT Presidency 19th September proposal for discussions to amend minimum sampling frequencies in the AnnexII Part B Table 1 for small water supply systems and apprehension shown for the financial burdens that the previous proposal would cause. However there are still some issues in the Directive proposal where we have identified concerns and also need for clarification of several requirements – as described below.

Latvia declares scrutiny reservation for all text.

Preamble, paragraph 4.
"Following the conclusion of the European citizens' initiative on thke right to water (Right2Water), a Union-wide public consultation was launched and a Regulatory Fitness and Performance (REFIT) Evaluation of Directive 98/83/EC was performed. It became apparent from that exercise that certain provisions of Directive 98/83/EC needed to be updated. Four areas were identified as offering scope for improvement, namely the list of quality-based parametric values, the limited reliance on a risk-based approach, the imprecise provisions on consumer information, and the disparities between approval systems for materials in contact with water intended for human consumption. In addition, the European citizens' initiative on the right to water identified as a distinct problem the fact that part of the population, especially marginalised groups, has no access to water intended for human consumption, which is also a commitment under Sustainable Development Goal 6 of UN Agenda 2030. ~~A final issue identified is the general lack of awareness of water leakages, which are driven by underinvestment in maintenance and renewal of the water infrastructure, as also pointed out in the European Court of Auditors' Special Report on water infrastructure~~**5**~~.~~"
We propose to delete the last sentence because water losses are not covered by the Directive on the quality of water intended for human consumption.

Preamble, paragraph 9.
Member States should identify hazards and possible pollution sources associated with those water bodies and monitor pollutants which they identify as relevant, for instance because of the hazards identified (e.g. microplastics, nitrates, pesticides or pharmaceuticals identified under Directive 2000/60/EC of the European Parliament and of the Councilı).
We draw attention to the fact that Directive 2000/60/EC does not currently provide the monitoring of micro-plastics in water and they are not in the list of priority substances, there is no agreement on the method and permissible concentration.

Article 2, paragraph 4. Water supply system classification.
Latvia previously commented on the size classification of small and medium water supply systems which has not been taken into account, therefore we maintain this concern and propose the following classification - small systems up to 100 m^3, average systems over 100 m^3 and less than 1000 m^3.
The gradation of water suppliers referred to in Article 2, paragraph 4, does not coincide with the gradation of the water supply systems referred to in Table 1 of Part B of Annex 2. In addition, the Directive does not provide names for the categories of water supply systems (≤ 100 m3 / d and 100≤1000 m3 / d) included in the Table 1, which are thus included under the definition of 'small water supplier'. In our opinion the existing gradation of water supply systems below 1000 m^3 / d should be maintained:

- medium 101-1000 m^3 / d,
- small 10-100 m^3 / d and
- very small below 10 m^3 /d

This is important for Latvia, because it is characteristic for Latvia that there are many small-size (up to 100 m^3 / d) water supply systems, which account for 90% of all water supply systems in Latvia, although they supply only 15% of the population. When analysing the results of monitoring, the gradation of existing water supply systems allows to precisely reflect the quality problems of drinking water characteristic for the given category of water supply. Using the proposed new gradation, the true state of water quality will not be sufficiently detailed.

Article 4, paragraph 1, point (c)

Latvia does not support the fact that the food industry that extracts water from its own source is subject to the same requirements as water suppliers. Hence we offer for greater clarity to insert the words "water suppliers" as indicated below.

For food industry that extracts water from its own source, the use of the current Proposal for a DWD - the new parameters, the frequency of monitoring 4 times a year, the risk assessment approach, is too rigid and a heavy financial burden, taking in account that the food industry has already developed and implemented HACCP systems. There are a large number of food enterprises in Latvia with their own water source, which consumes less than 100 m^3 of water per day. We would like to propose the following wording:

(c) Member States ⌦ have taken ⌫ all other measures necessary to ensure that water intended for human consumption from **Water suppliers** ⌦ comply ⌫ with the requirements ⇨ set out in Articles 5 to 12 ⇦ of this Directive.

Articles 7, 8, 9, 10.

Latvia does not support requirements to the current concept of hazard assessment:

The concept of risk assessment has been changed significantly and currently "hazard assessment", "supply risk" and "domestic risk" are separated. It can no longer be carried out within the framework of one risk assessment done by the water supplier, since the concept of "hazard risk" is imposed as a national measure, where surface water and groundwater monitoring carried out by the state is of crucial importance. And these different risk assessment types have different execution periods and review periods. It may be suggested to go back to the previous more simple option or to remove the "hazard risk" from the DWD at all and transfer it to the 2000/60/EC (Water Framework Directive). The "Hazard Assessment" system (Article 8) is particularly complicated.

In addition, Latvia asks for clarification on the following issues:

- For "operational monitoring" - should it only determine turbidity or other parameters as well?
- When will Legionella and lead monitoring start? Art.7.4. determines that the domestic risk assessment should start after 3 + 2 years. Is this transitional period applicable not only to the risk assessment but also to the monitoring of Legionella and lead? Also is it intended that the Member States determine the Legionella strategy mentioned in Art.10.1.b) before they have started domestic risk assessment?

Regarding frequency for Legionella and lead monitoring. Article 10.1 (b) specifies that in the framework of the domestic risk assessment, a regular monitoring of the parameters listed in Annex I Part D is to be carried out. It is stated that Member States can determine their own monitoring strategy. Does this strategy include frequency determination, because there is a new text in Annex II Part B - "Group B parameters? In order to determine the compliance with all the parametric values set out in this Directive, all other parameters not analysed in Group A and set in accordance with Article 5 shall be monitored at least at the frequencies set out in point 2 of Table 1?“ Latvia is asking for a confirmation that the text about Group B does not include the frequency of parameters for Legionella and lead as well.
It is necessary to define the terms “abstraction area”, “abstraction points”.

Article 10a. Materials and substances in contact with water intended for human consumption
Latvia **declares scrutiny reservation** on Article 10a in the current Presidency proposal (WK 10855/2018 19 September 2018). Latvia asks for an explanation what is meant by “any Union harmonization legislation”? The scope of the Directive is the quality and safety of drinking water, therefore, Latvia has concerns whether the Drinking Water Directive is the right place to deal with CPR 305/2011 issues.

Article 11. Monitoring.
We would like to express strong support for the AT Presidency 19th September proposal for discussions to amend minimum sampling frequencies in the AnnexII Part B Table 1 for small water supply systems and apprehension shown for the financial burdens that the previous proposal would cause.
Monitoring for "hazard assessment" should be removed from this article.

Article 13 on access of water.
Latvia supports the proposal made by Non-Paper by FI, FR, DE, HU, NL on access to water, to leave this issue only in the Recitals of the DWD with a reference to the UN Protocol on Water and Health and to delete Article 13 and Article 15 paragraph 1, point (a) from the DWD Proposal.

Article 15 on the notification information.
Compared to the wording in previous Directive proposal, the requirements are not simplified or reduced. Latvia supports more simplified notification conditions. The current requirements as referred to in Article 15 raise concern that data notification in general are going to be more complicated and qualitatively more demanding than now. Until now Latvia has been submitting data on the quality of drinking water at the consumer’s whereas, henceforth different data sets will have to be presented all over the profile of the drinking water chain.

Annex I Part C.
Latvia asks for an explanation in which cases (for which of the monitorings set out in the Directive) Annex I Part C updated indicator parameters will be required ?

Annex I Part E - markers (endocrine disruptors).
Latvia asks for an explanation should these parameters only be used for risk assessment, how often should they be analysed and where should sampling be carried out, as well as for an explanation of the term 'marker values'. There is a new text in Art. 8.1 (d) paragraph (iv) that Member States must implement monitoring requirements for these three indicators and report the results to the EC. Should the monitoring of these substances be performed only under Art.8 hazard assessment monitoring? A broader explanation is needed as in Art.9.2. there is a new text, stating that Annex I Part E parameters must be included in the supply risk assessment.

Annex II, Part A, paragraph 2.
Paragraph 2 of Annex II Part A provides that Article 11.2. monitoring programs should include 'one of the following' (a) collection and analysis of discrete water samples; b) measurements recorded by a continuous monitoring process. Which means that continuous monitoring can be chosen or not. However, further in paragraph 3 of Annex II Part A, the new text reads, "the monitoring programmes shall also include an operational monitoring programme complementary to verification monitoring, providing rapid insight in operational performance and water quality problems and allow rapid pre-planned remedial action". Does it mean that it is compulsory to include something that is measured continuously? At the moment, paragraph 3 states that only turbidity is mandatory. It is necessary to confirm whether the continuous monitoring as referred to in Annex II Part A 2.b) is the same as operational monitoring.

Annex II Part B Group A parameters.
An explanation is needed on how Annex II Part B Group A new parameters were created, as some of the parameters deleted from Annex I Part A have been left (coliform bacteria), but existing (somatic coliphages) are not there anymore. There is also turbidity in Group A, which has to be monitored daily during operational monitoring also. Clarification is necessary.

Annex II, Part B, table 1 - frequency of monitoring (sampling).
Regarding the monitoring frequency, Latvia supports the current Presidency proposal (WK 10855/2018 19 September 2018).

Annex IV
As regards the information to be provided to the public, Latvia supports the reduction of the amount of information to be provided and proposes further reduction for small water supply systems, while preserving information that relates to human health, particularly in case of exceedance of parameter values.

The main comments with regard to the food industry.

Article 2, paragraph 1 point (a) Definitions
For the purposes of this Directive:
1. ‘water intended for human consumption’ shall mean:
➲ (a) ➲(a) all water either in its original state or after treatment, intended for drinking, cooking, food preparation ➲ […] ➲ or other domestic purposes ⇨ in both public and private premises ⇦ , regardless of its origin and whether it is supplied from a distribution network, ⌦ supplied ⌫ from a tanker or ➲ […] ➲ put ⇦ in bottles ➲ or containers, ~~including spring waters~~ ➲;

The proposal from Latvia is to delete the words "including spring water" from Article 2 paragraph (1) (a), since spring water has a definition as referred to in Directive 2009/54/EC and spring water has other qualitative requirements than drinking water. Spring water should not be treated, as well as transportation (in tanks) from the place of extraction to the place of filling only in exceptional cases. We suggest to add this proposal from the Commission to include packaged spring water in Article 2 (1) (c) as a separate new paragraph.

Article 4, paragraph 1, point (c) Regarding "spring water":
Latvia does not support the fact that the entire Proposal for the DWD is subject to the spring water except Annex 1 Part A. We consider that requirements of paragraphs 7, 8, 9, 10, as well as the frequency of monitoring and the new parameters in the Proposal for a DWD for the spring water producers are disproportionate and their implementation is a large financial burden. The manufacturer of packaged spring water is the Food business operator as defined in Article 3 (3) of Regulation (EC) No 178/2002.
Consequently, we offer the following wording:
New point (c) of paragraph 1, Article 2
" (c) spring waters put into bottles intended for sale, in accordance with the third subparagraph of Article 9(4) of Directive 2009/54/EC, shall only be subject to Article 6 and the minimum requirements set out in Annex I part B and C of this Directive, provided their water is subject to relevant obligations under the procedures on hazard analysis and critical control point principles and remedial actions under relevant Union legislation on food."

Article 6, paragraph 1, point (d) Place of compliance
Latvia asks the EC for clarification, which requirements in this drinking water directive did not apply to the food industry with its own water source (individual water abstraction)?
In Latvia, a large number of food producers have their own water source, hence Latvia believes that paragraphs 7, 8, 9, 10, and the frequency of monitoring 4 times a year and the requirements of the new parameters in the Proposal for a DWD are disproportionate and their implementation for the food industry will be large financial burden.
Option 1: To provide a derogation in the paragraph 3 of the preamble or in Article 3 paragraph 2, point (a) to food enterprises with its own water source, so that the requirements of the Member States can be regulated by national legislation;
Option 2: Provide requirements for food businesses with their own water source, in the text, setting requirements identical to the current Directive 98/83/EC with regard to monitoring parameters, frequency of monitoring, voluntary risk approach. Consequently, we offer the following wording:
New paragraph 5 of Article 3
"5. Food business operators as defined under Article 3(3) of Regulation (EC) No 178/2002 with an individual water abstraction shall only be subject to Articles 1, 2, 3 and the minimum requirements set out in Annex I part A, B and C of this Directive, provided their water is subject to relevant obligations under the procedures on hazard analysis and critical control point principles.."

Monitoring frequency for food enterprises with their own water source
Regarding the monitoring frequency for food enterprises with their own water source (individual water abstraction), Latvia support the current Presidency proposal (WK 10855/2018 19 September 2018).

POLAND

Article 3

Amendments to Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage

Annex VI INFORMATION AND DATA REFERRED TO IN ARTICLE 18(1) of Directive 2004/35/EC

Text proposed by PL:

"3. whether and when liability proceedings were commenced regarding environmental damage or imminent threat of such damage."

Justification: Poland maintains its previous position, that para. 3 refers to providing information based of which legal system **(administrative, civil or criminal liability)** a liability procedure was initiated, while the The Prevention and Remedying of Environmental Damage Act of 13 April 2007 (OJ of 2018 item 954), transposing into Polish law Directive 2004/35/EC is based on a system **of administrative responsibility**, and therefore there would be a problem with collecting information on proceedings initiated based of civil and criminal liability. Further, the present draft regulation still does not indicate the specific dates associated with its entry into force, and therefore it is not known how long it will take the Member States to implement its provisions.

Article 5

Amendments to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds
Art. 12 of Directive 2009/147/EC
In Poland's view, in paragraph 2, the words "The Commission, ***assisted by the European Environment Agency***, shall prepare every six years a composite report based on the information referred to in paragraph 1" should be replaced with the words "***The Commission shall prepare every six years a composite report based on the information referred to in paragraph 1***".
Justification: Currently, the obligation to prepare a collective study is the exclusive competence of the Commission. The part of the text "assisted by the European Environmental Agency" section of the EP and Council Directive on the conservation of wild birds could be justified if such inclusion was also proposed to the Council Directive 92/43/EWG on the conservation of natural habitats and wild fauna and flora, in the corresponding article on the obligation to draw up summary report by the European Commission (Article 17 of the Directive), which is not the case. In this situation, Poland maintains its previous position that adding the above additions to the text of the EP and Council Directives on the conservation of wild birds, does not lead to the unification of the wording of the articles on reporting obligations in the case of the two nature directives.

SWEDEN

Sweden appreciates the possibility to submit written comments on and suggestions for the Presidency second compromise text on environmental reporting alignment. Below are some further comments and suggestions on Article 5, 6 and 7.

Article 5. Directive 2009/147/EC (Birds' Directive)

SE would like to see below amendments in blue and deletions in red in the compromise text.

Article 12 of Directive 2009/147/EC is amended as follows:

1. paragraph 1 is replaced by the following:

"1. Member States shall forward to the Commission every six years, ~~at~~ **in** the same ~~time~~ **year** as the report drawn up pursuant to Article 17 of Council Directive 92/43/EEC*, a report on the implementation of the measures taken under this Directive ~~and the main impacts of these measures~~

OPTION 1
This report shall include in particular information concerning the status and trends of wild bird species protected by this Directive, the threats and pressures on them, the conservation measures taken for them and the contribution of the network of Special Protection Areas to the objectives laid out in Article 2 of this Directive.

OPTION 2
This report shall include in particular information concerning the **conservation measures taken for** ~~status~~ **population size** ~~and trends of~~ wild bird species protected by this Directive~~, the threats and pressures on them,~~ **and** the **evaluation of the impact of those measures on the conservation status** ~~conservation measures taken for them~~."; ~~and the contribution of the network of Special Protection Areas to the objectives laid out in Article 2 of this Directive.";~~

~~**The Commission shall, by means of an implementing act, lay down rules for the format of the reports under paragraph 1. Those implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).**~~

*Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7.)";

2. in paragraph 2, the first sentence is replaced by the following:

"2. The Commission, assisted by the European Environment Agency, shall prepare every six years a composite report based on the information referred to in paragraph 1.".

Sweden's comments on the proposals above:
As for the first sentence, "measures" refers to all measures taken under the Directive, including both measures concerning SPA sites and other conservation measures under Article 4, and measures to implement the Species protection provisions under Article 5–9 of Directive 2009/147/EC. A requirement to report on the main impacts of all measures under the Directive should not be introduced as it would have a very broad scope.

In contrast, under Article 17 of Directive 92/43/EEC the reporting requirement on "main impacts" is limited to conservation measures referred to in Article 6(1). In other words, the requirement is limited to the main impacts of conservation measures for special areas of conservation in the Natura 2000 network.

A corresponding reporting requirement under Directive 2009/147/EC should therefore be limited to conservation measures, essentially the SPA network. That can either be achieved through the Commission's proposal (Option 1 above) that reads "…the contribution of the network of Special Protection Areas to the objectives laid out in Article 2 of this Directive" or through the Presidency's new compromise proposal (Option 2 above).

As for the second sentence, we prefer the original proposal by the Commission (Option 1 above), but can accept the Presidency's new compromise proposal (Option 2 above), subject to deletion of "and the contribution of the network of Special Protection Areas to the objectives laid out in Article 2 of this Directive" as the new proposed wording "conservation measures taken for wild bird species protected by this Directive and the evaluation of the impact of those measures on the conservation status" includes a requirement to report on the SPA network, being in fact conservation measures.

Most important,as for the proposed new second paragraph on implementing acts, Sweden opposes to empower the Commission to adopt implementing acts for the following reasons. Firstly, we have no information indicating a real need to formally establish the reporting format by adopting implementing acts instead of the current practice for establishing these formats. Secondly, but not least, Sweden wants to draw attention to the ongoing RPS Adaptation process, where the Member States, in March 2018 prior to the trilogue with the EP, decided to propose the deletion of both Articles 15 and 16 of Directive 2009/147/EC, thereby eliminating the current Regulatory Procedure with Scrutiny (RPS/PRAC) and substituting RPS with the ordinary legislative procedure (OLP) instead of an empowerment to the Commission to adopt *delegated acts* (as originally proposed by the Commisision). Thus, the proposed new second paragraph on *implementing acts* is not in line with the Member States' proposal regarding Directive 2009/147/EC under the RPS Adaptation process, to eliminate the RPS without substituting the procedure with an empowerment to the Commission.

Article 6 Directive 2010/63/EU on animals used for scientific purposes
SE questions the amendments in the revised Presidency proposal to Article 43.3, re-introducing the requirement on MS to submit for publication the non-technical summaries to the COM. SE cannot, from the written responses to the first Presidency compromise proposal, detect any MS requesting the re-introduction of COM's initial proposal on a central database at EU level.
SE has serious doubts of the appropriateness and value of a central database for the non-technical summaries. The proportionality of the administrative burden is questioned for the following reasons:

1. The database is meant to serve the interest of the public. There is no evidence that the added administrative burden is outweighed by what is gained in openness and transparency, bearing in mind that a requirement of national publication already exists. The public's interest in this information at EU level is simply not known.

2. For openness and transparency for citizens in the MS it will still be necessary to publish nationally. National systems for publication need to be changed/adjusted leading to additional work and costs in order to fulfil the need for EU publication. Several technical issues can be foreseen and could lead to that the MS have to transfer the data from their national templates for publication into the new templates before submitting the summaries to the COM.

3. Publication in the central database will be in the MS own language. For anyone to be able to find summaries of interest, each document therefore needs to be tagged with key words in all relevant fields. i.e. species, description of purpose, in exactly the same way in a common language in all MS. Bearing in mind that we are talking about several thousands of projects a year and that the tagging itself needs to be performed and/or checked by each MS, this will constitute substantial administrative burden. Much of the specific details are also captured only in the free text fields, which poses an additional challenge.

For these reasons SE believes the question of a central database for non-technical summaries needs to be further evaluated. As stated in the Commission Staff Working Document SWD (2017) 353 accompanying the Commission report on the Directive, published on 8 November 2017 COM (2017) 631, concerning a central repository of all non-technical summaries at EU level, the Commission (COM), Member States (MS) and stakeholders should explore the possibilities for such a repository taking into account legal requirements and linguistic limitations. However, SE believes that any exploration performed so far is not thorough enough to constitute a basis for the proposed amendment to Article 43. The proportionality of the added administrative burden needs to be further evaluated.

Proposal for a feasibility study

One way forward could be to include a requirement in the Regulation stating that the Commission together with Member States and stakeholder evaluate the need, usefulness and proportionality of a database of non-technical summaries at EU level.

"The Commission shall, in consultation with Member States and stakeholders, conduct a feasibility study, on the usefulness and consequences of a database of non-technical summaries at EU level. The study shall be published no later than ….."

Proposal for amendments to the current Presidency proposal

1. Article 43 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

2. ~~From 1 January 2021~~, Member States ~~shall~~ **may** require the non-technical ~~project~~ summary to specify whether a project is to undergo a retrospective assessment and by what deadline. **In such case,** Member States shall ensure that the non-technical project summary is updated within 6 months of the completion of the retrospective assessment with the results thereof.

3. Member States shall, until 31 December 2020, publish the non-technical project summaries of authorised projects and any updates thereto. From 1 January 2021, Member States shall the non-technical project summaries, at the latest within 6 months of authorisation, and any updates thereto~~, by electronic transfer to the Commission.~~

4.Delete

Final comment

A final comment would be that the administrative burden of a central database will be of a completely different magnitude than the proposal from the Commission to bring forward the reporting dates in Articles 54.1 and 54.2 from 1 November to 30 September as well as the proposal to make the update of the non-technical summaries with the result of the retrospective assessments mandatory (already performed by two thirds of the Member States).

Article 7 Regulation (EC) No 166/2006, E-PRTR

SE fully subscribe to the importance of data being made available to the general public without unnecessary delay.

Whilst 15 months can at first sight be seen as a relatively long period of time, it is in fact an ambitious time frame when it comes to reporting emissions. Taking into account all the steps necessary to safeguard the quality of data SE still fails to see how the current period of 15 month can be shortened without the risk of hampering the quality of data reported.

SE would like to stress that there will be no added value of the quick disclosing of data if the quality of said data can not be guaranteed. Even if given the highest priority on national level data collection, quality checking and corrections will take time. This also if all reporting – as is already the case in SE – is done electronically.

The deadline for reporting will not only need to take into account time for the collection of information and initial quality checking of data within the MS, but also the time needed for checks to be carried out by the Commission and EEA and time for member states to make the subsequent corrections. A deadline of 11 month will not be sufficient.

SE would like to point out that the fact that there is a deadline of 15 month for reporting in no way restricts the MS from - upon request from the general public - share data that is available but has not yet been published through the formal reporting. Such information sharing can then be paired with a disclaimer that the data has not yet undergone full quality checking. Hence a deadline of 15 month for reporting will not be equivalent with the general public having to wait two years for information collected under E-PRTR to be shared.

UNITED KINGDOM

Article 1 – Sewage Sludge Directive

The UK supports the concerns raised in the last WPE that the electronic location only of the consolidated information should be communicated to the Commission. We support the French suggestion to amend the second paragraph of paragraph 2 as follows: "Member States shall submit to the Commission the electronic location of the information referred to in paragraph **2** ~~1~~."

Article 5 – Wild Bird Directive

As noted in the WPE, the UK broadly supports this article's contents. However, we are concerned about the new requirement in the Presidency compromise text for an "evaluation of the impact" of measures on conservation status. This new requirement goes beyond the existing reporting guidelines and could cause an additional administration burden. We prefer bringing the text in line with existing guidelines, as below.

Article 5

Amendments to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds

Article 12 of Directive 2009/147/EC is amended as follows:

1. paragraph 1 is replaced by the following:

"1. Member States shall forward to the Commission every six years, ~~at~~ **in** the same ~~time~~ **year** as the report drawn up pursuant to Article 17 of Council Directive 92/43/EEC*, a report on the implementation of the measures taken under this Directive and the main impacts of these measures. This report shall include in particular information concerning the **conservation measures taken for** ~~status **population size** and trends of~~ wild bird species protected by this Directive~~, the threats and pressures on them,~~ **and** an assessment of the effectiveness ~~the **evaluation of the impact**~~ **of those measures on the conservation status** ~~conservation measures taken for them~~ and the contribution of the network of Special Protection Areas to the objectives laid out in Article 2 of this Directive.";

The Commission shall, by means of an implementing act, lay down rules for the format of the reports under paragraph 1. Those implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).

*Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7.)";

2. in paragraph 2, the first sentence is replaced by the following:

"2. The Commission, assisted by the European Environment Agency, shall prepare every six years a composite report based on the information referred to in paragraph 1.".

Commented [UK1]: This wording reflects the existing guidelines, set out in 'Reporting under Article 12 of the Birds Directive: Explanatory Notes and Guidelines for the period 2013-2018', and agreed by national experts.

Page 43 of this document requires Member States "to describe the most important conservation measures taken for Annex I species and any other migratory species triggering SPA designations nationally (as indicated in the species checklist) and to provide a simple assessment of the effectiveness of these measures".