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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	9498/18 + ADD 1 - COM(2018) 337 final + Annexes 1 to 2
Subject:	Water reuse: WPE on 18 March 2019: Presidency discussion papers on selected Articles

With a view to the abovementioned WPE meeting, delegations will find attached two Presidency discussion papers containing:

- Presidency non-paper on Article 1, and
- Presidency non-paper on Articles 4, 5, 6, 7 and 8.

Regulation on minimum requirements for water reuse

- WPE 18 March 2019 -

Non-paper on subject matter and purpose (Art. 1)

The purpose of the Regulation on water reuse for agricultural irrigation is to facilitate the uptake of water reuse wherever it is appropriate and cost-efficient, thereby creating an enabling framework for those Member States who wish to practice water reuse.

Having in view that a Regulation is directly applicable to all Member States, during the discussions at technical level, Member States required more clarifications regarding the obligations that they have under this instrument, having in view that not all of them intend to use the waste water for this purpose.

At present, 6 Member States (namely CY, EL, ES, FR, IT, PT) are already using the waste water for irrigation and have already provisions in their national legislation or non-regulatory standards on such activity. For the other Member States, the use of waste water for irrigation should remain an option according to their national circumstances. These Member States have asked for clarification on the obligatory nature of this instrument and some Member States have rather expressed support to change this instrument into a Directive.

At the Working Party on 10th of December 2018, LS of the Council has confirmed that for the purpose of this act, a Regulation is the right legal form and indicated the possibility to clarify the text by making a reference to Art. 12.1 of the Urban Waste Water Treatment Directive (91/271/EEC): *“Treated waste water shall be reused whenever appropriate. Disposal routes shall minimize the adverse effects on the environment”*.

Romanian Presidency reformulated the recital as well as the new paragraph in Art. 1 with the intention to clarify that the Regulation is applicable when treated waste water is reused in accordance with Art. 12 (1) of the UWWTD. The proposal received support from certain delegations, but other delegations were in favor of a clearer text built on a kind of opt-out possibility for the Member States that do not have the need to use this water.

At the WPE meeting on 28th of February 2019, LT and LV presented a joint proposal stating more clearly that this Regulation applies if there are adopted rules at national level. In addition, they proposed to modify Art. 12.1 of Directive 91/271/EEC to clarify that it is the decision of the Member States to allow the reuse of treated waste water. This proposal received support from a number of delegations, but other delegations, as well as the Commission, expressed concerns about the opening of Directive 91/271/EEC.

In this context, Romanian Presidency proposes a new compromise text that intends to give flexibility to Member States via a link with the supplementary measures adopted under Art. 11.4 of Water Framework Directive.

Modifications are in track changes.

(25bis) Directive 2000/60/EC provides Member States with the necessary flexibility to include supplementary measures of a voluntary nature in the programmes of measures adopted to support their efforts to achieve the water quality objectives as established by this Directive. The non-exclusive list of supplementary measures provided for in Annex VI Part B of Directive 2000/60/EEC contains, among others, water reuse measures. In this context and in line with the hierarchy of measures that could be considered by the Member States in managing water scarcity and droughts and that encourages with priority measures from water saving to water pricing policy and alternative solutions, and taking due account of the cost-benefit dimension, the minimum requirements for water reuse in agricultural irrigation, as established by this Regulation, should be applicable whenever treated urban waste water is reused in accordance with Article 12 (1) of the Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment.

Article 1

Subject matter and purpose

1. This Regulation lays down minimum requirements for water quality and monitoring and the obligation to carry out specified key risk management tasks, for the safe reuse of treated urban waste water in the context of integrated water management.

These minimum requirements shall apply whenever a Member State decides, in accordance with Article 12(1) of Directive 91/271/EEC, to reuse treated urban waste water for the use specified in section 1 of Annex I as one of the supplementary measures referred to in Annex VI Part B of the Directive 2000/60/EC; shall apply whenever treated waste water is reused in accordance with Article 12(1) of Directive 91/271.

2. The purpose of this Regulation is to guarantee that reclaimed water is safe for its intended use, thereby ensuring a high level of protection of human and animal health and the environment, addressing water scarcity and the resulting pressure on water resources in a coordinated way throughout the Union, thus also contributing to the efficient functioning of the internal market.
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Regulation on minimum requirements for water reuse

- WPE 18 March 2019 -

Non-paper on procedure for granting the permit (Art. 4, 5, 6,7, 8)

Presidency intends to continue discussions on the main Articles 4, 5, 6, 7, 8. The modifications proposed are based on the non-papers discussed on 28th of February 2019 and follows the requests by delegations to have more flexibility at national level to apply the permitting procedure for water reuse.

Modifications are shown in track changes.

Modifications proposed for Art. 4

Art. 3 – insertion of a new definition on the point of compliance:

12. “point of compliance” means the point where the requirements specified by this Regulation have to be met. The point of compliance can be the outlet of the reclamation plant.

Article 4

Obligations of reclamation plant operators as regards reclaimed water quality ~~and obligations of the end users as regards reclaimed water use~~

1. Reclamation plant operators shall ensure that reclaimed water destined for a use specified in section 1 of Annex I, shall, at the ~~outlet of the reclamation plant~~ (point of compliance), comply with the following:
 - (a) the minimum requirements for water quality laid down in Section 2 of Annex I;
 - (b) any additional conditions set by the competent authority in the relevant permit pursuant to points (b) and (c) of Article 7(3), as regards water quality.

The reclamation plant operator shall not be responsible for the quality of reclaimed water after the point of compliance.

2. In order to ensure compliance with the requirements and conditions referred to in paragraph 1, the reclamation plant operator shall monitor water quality in accordance with the following:

~~(b)~~(c) section 2 of Annex I;

~~(e)~~(d) any additional conditions set by the competent authority in the relevant permit pursuant to points (b) and (c) of Article 7(3), as regards monitoring.

3. **The reclamation plant operators and the end users shall inform-cooperate the end users to ensure that about the reclaimed water quality elasses they produced in accordance with the minimum requirements specified in section 2 of Annex I meet the needs of the end users regarding crop categories and the allowed agricultural use and irrigation method as specified in section 2 of Annex I.**

4. **The water quality required to comply with Regulation 852/2004 may be obtained using at a subsequent stage several water treatment options alone or in combination with other non-treatment options of the reclaimed water.**

~~The end users of the reclaimed water shall respect the crop category and irrigation method as specified in section 2 of Annex I.~~

5. Transport or storage of the reclaimed water shall not lead to deterioration of the water quality of the reclaimed water provided by the reclamation plant operator.

~~The Commission is empowered to adopt delegated acts amending this Regulation in accordance with Article 14 in order to adapt to technical and scientific progress the minimum requirements set out in Section 2 of Annex I.~~

Modifications proposed for Art. 5

Article 5

Risk management

1. For the purposes of producing ~~and~~ supplying and using reclaimed water, risk management shall be undertaken by the reclamation plant operator, in consultation with **Member States shall designate the responsible party or authority for the elaboration of a Water Reuse Risk Management Plan** from the following actors:

- (a) **the reclamation plant operator;**
- (b) the operator of the urban waste water treatment plant(s) supplying a reclamation plant with water, if different from the reclamation plant operator;
- (c) end-user(s);
- ~~(e)~~(d) **the water authority;**
- ~~(d)~~(e) any other party **or authority** deemed relevant by the **Member State**.

2. The reclamation plant operator shall draw up **Member States shall ensure that the responsible party or authority designated pursuant to paragraph 1 of this Article consults end-users, as well as any other party or authority deemed relevant; before drawing up a** Water Reuse Risk Management Plan based on the key risk management tasks set out in Annex II.

The Water Reuse Risk Management Plan shall **define and allocate the risk management responsibilities and shall** propose any additional requirements to those specified in Annex I necessary to further mitigate any risks and shall, inter alia, identify hazards, risks and appropriate preventive **and/or possible corrective** measures.

~~The responsible party or authority designated to draw up the Water Reuse Risk Management Plan shall make the Plan available to the reclamation plant operator who shall include it in the application for a permit referred to Article 6.~~

~~If the obligations included in the Water Reuse Risk Management Plan are assigned to a responsible party or authority other than the reclamation plant operator, the Member States shall indicate how these obligations are carried out and enforced.~~

3. The Commission is empowered to adopt, in accordance with Article 14, delegated acts amending this Regulation in order to adapt to technical and scientific progress the key risk management tasks set out in Annex II.

The Commission is also empowered to adopt, in accordance with Article 14, delegated acts supplementing this Regulation in order to lay down technical specifications of the key risk management tasks set out in Annex II.

Article 8 bis

Competent authorities

Member States shall designate the competent authorities ~~or responsible parties~~ for the purposes of Articles 5, 6, ~~7~~ and 8.

Modifications proposed for Art. 6

Article 6

Application for Obligations regarding reclaimed water a permit to supply reclaimed water

1. ~~Any supply of r~~Reclaimed water destined for a use specified in section 1 of Annex I, shall be subject to a permit.
2. **The responsible party or authority designated by the Member State pursuant to Article 5**~~An operator~~ shall submit an application for the permit referred to in paragraph 1, or for a modification of an existing permit to the competent authority of the Member State in which the reclamation plant operates or is planned to operate. **Where appropriate, the permitting requirements ~~the permit to supply~~of reclaimed water may be integrated in the permit of the urban waste water treatment plant.**
3. The ~~application~~ **permit** shall include the following:
 - (a) the use or uses for which the reclaimed water is requested, the identification of the end users and the reclaimed water supply plant or plants and the volume of the reclaimed water;**
 - ~~(a)~~**(b) a Water Reuse Risk Management Plan drawn up in accordance with Article 5(2);**
 - ~~(b)~~ **a description of how the reclamation plant operator will comply with the requirements under its responsibility included in a Water Reuse Risk Management Plan drawn up in accordance with Article 5(2);**
 - ~~(c)~~ **a description of how the reclamation plant operator will comply with the minimum requirements for water quality and monitoring set out in section 2 of Annex I;**
 - (c) conditions in relation to the minimum requirements for water quality and monitoring set out in section 2 of Annex I;**

(d) conditions in relation to the additional requirements proposed in the Water Reuse Risk Management Plan;

(e) any other conditions necessary to further mitigate any unacceptable risks to the human and animal health or the environment;

(f) the validity period.

4. The permit shall be reviewed regularly and at least every five years and, if necessary, modified, in particular in case of a substantial change of the capacity or the technological process of the reclamation plant.

5. The competent authority may refuse to grant the permit in the following cases:

a) there are sufficient alternative water supplies that can be used for agricultural irrigations;

b) no pressures on the quantitative status of the groundwater and surface waters have been identified in accordance with Annex VII Part A point 2 of the Directive 2000/60/EC.

Modifications proposed for Art. 7 and recital 11)

- (11) It is necessary to ensure the safe use of reclaimed water, thereby encouraging water reuse at Union level and enhancing public confidence in it. Supply of reclaimed water for particular uses should therefore only be permitted on the basis of a permit, granted by competent authorities of Member States. In order to ensure harmonised approach at Union level, traceability and transparency, the substantive rules for that permit should be laid down at the Union level. However, the details of the procedures for granting permits, **such as the competent authorities and deadlines**, should be determined by Member States. Member States should be able to apply existing procedures for granting permits which should be adapted to take account of the requirements introduced by this Regulation.

When designating the responsible party or authority for the elaboration of the Water Reuse Risk Management Plan and the authority for the issuing of the permit to supply reclaimed water, Member States should ensure that there is no conflict of interests.

Article 7

Granting of the permit

1. ~~For the purposes of assessing the application, the competent authority shall, if appropriate consult and exchange relevant information with the following:~~
 - (d) ~~other relevant authorities of the same Member State, in particular the water, agriculture and/or health authorities, if different than the competent authority;~~
 - (e) ~~contact points in potentially affected Member State(s) designated in accordance with Article 9(1).~~
2. ~~The competent authority shall decide within 3 months from the receipt of the complete application as referred to in point (a) of Article 6(3) whether to grant the permit. Where the competent authority needs more time due to the complexity of the application, it~~

shall inform the applicant thereof, indicate the expected date of granting the permit and provide reasons for the extension.

3. ~~Where the competent authority decides to grant a permit, it shall determine the conditions applicable, which shall include the following, as applicable:~~
 - (a) ~~conditions in relation to the minimum requirements for water quality and monitoring set out in section 2 of Annex I;~~
 - (b) ~~conditions in relation to the additional requirements proposed in the Water Reuse Risk Management Plan as referred to in point 5 of Annex II of this Regulation;~~
 - (c) ~~any other conditions necessary to further mitigate any unacceptable risks to the human and animal health or the environment.~~
4. ~~The permit shall be reviewed regularly and at least every five years and, if necessary, modified, **in particular in case of a substantial change of the capacity or the technological process of the reclamation plant. The competent authority shall decide the content of an application for a modification of an existing permit in case of a substantial change.**~~

Modifications proposed for Art. 8

Article 8

Compliance check

1. The competent authority shall verify compliance of the reclaimed water with the conditions set out in the permit, at the point of compliance. The compliance check shall be performed using the following means:
 - (a) on-spot checks;
 - (b) use of monitoring data obtained pursuant to this Regulation and Directives 91/271/EEC ~~and 2000/60/EC~~;
 - (c) any other adequate means.
2. In the event of non-compliance with conditions set out in the permit, the competent authority shall require the ~~reclamation plant operator~~ responsible party or authority to take any necessary measures to restore compliance without delay.
3. Where non-compliance causes a significant risk to the environment or to human health, the ~~reclamation plant operator~~ responsible party or authority shall immediately suspend ~~any further supply~~ the use of the reclaimed water until the competent authority determines that compliance has been restored.
4. If an incident affecting compliance with the permit's conditions occurs, the ~~reclamation plant operator~~ responsible party or authority shall ~~immediately~~ inform the competent authority and ~~the end-user(s)~~ other responsible parties which may be potentially affected, and communicate to the competent authority the information necessary for assessing the impacts of such an incident.