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LIMITE

ENV

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 3864/2019
N° Cion doc.:	9498/18 + ADD 1 - COM(2018) 337 final + Annexes
Subject:	Water Reuse Regulation: Follow-up to WPE on 18 March 2019 (morning only) - comments from delegations

Following the request for comments set out in WK 3864/2019, delegations will find attached comments received from BE, DE, EL, NL, SK and SI.

BELGIUM

Comments on the proposal for a Regulation on minimum requirements for water reuse following WP 18/03/2019

Non-paper on procedure for granting the permit (Art. 4, 5, 6,7, 8) (WK 3641/2019)

Article 3. 12 - BE reads the text as if it is now up to the MS to decide where the point of compliance lies in order to assure the required flexibility. BE is of the opinion that the ‘fit for purpose-concept’ is important.

If a MS can decide case by case where the point of compliance lies within the supply chain, it seems relevant that this is clearly mentioned in the risk management plan and included in the permit.

Several MS commented during the WP that they see a need for having more clarity in the regulation on where the point of compliance can be. The proposal offers too much flexibility in relation to the goals of the regulation.

Taking into account these comments, BE proposes the following amendment to the proposed definition:

*12. “point of compliance” means the point where the requirements specified by this Regulation have to be met. The point of compliance ~~can~~ is **be** the outlet of the reclamation plant **unless defined by the competent authority at a later point in the supply chain** .*

Article 4.1. In connection with the proposed amendment on the definition of the point of compliance, BE considers that a change is needed in the last paragraph. Since MS have the option to set the point of compliance at the point of ‘use’, a reclamation plant operator can only be made responsible till the point where the water is ‘supplied’.

*The reclamation plant operator shall not be responsible for the quality of reclaimed water after the point **of compliance in the supply chain where the reclaimed water is supplied to the end user**.*

Article 4. 4 - BE would like clarification here. We have problems with understanding both the ratio behind this proposed change and the wording. Taking into the clarification given during the WP, we consider that a rewording is needed.

Article 5 – The scope of the risk management is now broadened to the actual use of the reclaimed water. BE can support this.

In practice, the most logical set up seems that both a reclamation plant operator and the actual end user are both within their competences responsible to assure the safe use of reclaimed water. Both would be then involved in the elaboration of the risk management plan. BE would therefor propose to refer to ‘responsible **party(ies) or authority(ies)**’ in article 5.1.

Member States shall designate the responsible party(ies) or authority(ies) for the elaboration of a Water Reuse Risk Management Plan from the following actors:

In art.5.2, BE would consider it appropriate to include the following:

The Water Reuse Risk Management Plan shall define the point of compliance and the risk management responsibilities and shall propose....

Article 6 – General comments

- BE is supportive to the idea raised by CY during the WP of using an ‘authorization’ rather than or as an alternative to a permit. An authorization is a broader concept and would allow using a classic system of permitting but would also allow a more flexible approach needed when water reuse is part of an ad hoc response in periods of drought.
- BE shares the concerns raised by DE about the lack of specifications on the content of the application. BE would prefer having some provisions on this in the Regulation.

Article 6 - 6.3 (a) – the permit should include the identification of the end user and the volume of the reclaimed water to be supplied or used. BE recognizes that these aspects are import f.e. in light of enforcement activities. However, for temporal uses in response to periods of water scarcity and drought, it is not evident to identify in advance the potential users. The same goes for the volume supplied or used. BE suggest the following amendment:

3. The 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. When the identification of the of the end users and the estimation of the volume of reclaimed water to be supplied or used, is not yet available, the permit should include requirements to assure the collection of these during the production, supply and use of the reclaimed water.

Article 6 - 6.3 (b) – The WRRMP becomes now part of the permit. BE considers this not appropriate. The WRRMP should remain part of the application and essential elements can be included in the actual permit.

Article 6 – 6.5 - It is not clear whether the grounds to refuse a permit given here are limitative. It seems that there can be other reasons for which a MS can refuse to grant a permit such as an incomplete risk management approach, negative effects on the aquatic ecosystems due to a reduced input in the flow in rivers that normally receive the treated effluent. In addition, BE remarks that annex VI, part B of the Water Framework Directive includes in (ix) demand measures such as an adapted agricultural production such as low water requiring crops in areas affected by drought.

Article 8 - BE can agree with the proposed changes. More flexibility is indeed needed to be able to address the correct actor for corrective actions.

GERMANY

20.03.2019

Commission's Proposal on Minimum Standards for Reuse of Treated Waste Water

→ **German Comments** already provided on 1st and the 7th February 2019

General Remarks

- The objective of the COM, namely to set a uniform EU requirement for the use of reclaimed waste water for irrigation purposes, continues to be welcomed in principle;
- Nevertheless general scrutiny reserve;
- Critical points in the current analysis from a German perspective:
General:
 - Despite the statement on the part of the Council's Legal Service (JUR) in favour of the adoption of a regulation as a regulatory instrument, Germany would still prefer it to **be a directive** in order to guarantee that the Member States have sufficient scope for transposition that is compatible with national administrative law, in particular with regard to the provisions on the permit procedure. From a German perspective, it would suffice to make treatment with reclaimed urban waste water subject to a permit requirement in the EU legal act. The details of the permit procedure should be left to national transposition.
 - It should be made absolutely clear that there is **no obligation incumbent on Member States to authorise treatment with reclaimed waste water**, even if the conditions for it are met under EU and national law. Member States should be given a **wide margin of discretion** here **in order to accommodate their national circumstances** (e.g. no water scarcity, implementation of other water efficiency measures), and to protect particularly sensitive areas (e.g. drinking water protection areas, areas with high groundwater levels), or to opt out where there is a disproportionality between risks and water needs.

Updated Version (in preparation for the meeting 18 March 2019)

- The updated version of the non-paper contains changes that not always add clarity to text. These changes relate to passages of text, which, unlike previous proposals, add ambiguity.

- We therefore refer again to our previous opinions. Germany cannot support the revision of Article 1, 4 and 6 in the present form. Our objections relate in particular to the following points:
 - The revision of the scope is insufficient, and we refer you to the formulations proposed in Germany's opinion of 7 March 2019.
 - In view of the inadequate allocation of responsibilities and competences, the drafting of the text as a regulation is not acceptable and in Germany's view the formulation is still indicative of a directive.
 - Under Article 4 the end-user is still not sufficiently involved ("Shall cooperate"). While paragraph 5 takes up Germany's concern that there must be no deterioration in quality following storage or during transport, it does not indicate who bears responsible for this and is ultimately liable for such deterioration.
 - Article 6 still lacks a requirement (permit) for the use of reclaimed water. Paragraph 3 describes what the permit includes but not what the application comprises. This deficiency is also clearly contrary to a regulation format. The competent authority can only make a decision if the relevant documents are made available to it. Moreover, paragraph 5 can be interpreted to mean that the permit may only be refused for the reasons listed. However, the competent authority must be able to make a decision on granting or refusing a permit based on an overall assessment.
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GREECE

Regulation on minimum requirements for water reuse

- WPE 18 March 2019 -

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

We believe that the changes proposed in the non-paper on subject matter and purpose are in the right direction. More specifically, the regulation provisions will apply to cases in which MS decide whether or not they are going to reuse water. However, we are under the impression that it is not yet clarified if it concerns all the waste water treatment plants that will be reusing water or if it only concerns those that fall under the scope of Directive 91/271/EEC.

GREECE

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)

As regards the non-paper on art. 4, 5, 6, 7 and 8, we have the following remarks:

Regarding article 4, we believe that it is not very clear what kind of obligations each party has, Specifically, the reclamation plant operators should be responsible for providing the reclaimed water quality that is needed for this specific reuse process, while the end-users cannot be responsible for the water quality but for the implementation of the specific irrigation method and the irrigation of certain crops for which such quality is foreseen.

We believe that paragraph 4 is unclear and therefore it could be redrafted accordingly.

Paragraph 5 should also be redrafted. For instance, there could be a degradation of water quality during its transportation or storage, however it could still be in compliance with the quality standards for the use it is intended for. Besides, the point of compliance can be identified after the storage or transportation.

Regarding the additional paragraph 5 of article 6, the reference on the reasons for which a reuse project should not be granted a permit, are not limited to those referred to in the article. Thus, we cannot see the added value of this paragraph and we would prefer its deletion.

Regarding article 7, we are in favor of deleting this article, given that, as we have pointed out during previous WPE meetings , the existing procedures of granting permits can be used.

Lastly, regarding article 8, it was mentioned by us as well as by other MS, that there already exist established procedures relating to the checks/ controls. Having this in mind, we believe that this article has the possibility to create further administrative burdens for the MS

THE NETHERLANDS

Water Reuse Regulation - Written comments

20 March 2019

The Netherlands appreciates the Presidency non-paper on Articles 1,4,5,6, 7, 8 and welcomes the opportunity to provide written comments on the Commission Proposal for a Regulation setting minimum quality criteria for water reuse. Please find our comments per article below. It should be read in combination with the comments made at an earlier stage. We reserve the opportunity to build on these comments at a later stage.

Article 1: subject matter and purpose (paragraph 1)

Presidency proposal
<p>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.</p> <p><u>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.</u></p>
NL comment
<p>NL is concerned about the implications of the new addition "as one of the supplementary measures referred to in Annex VI of Directive 2000/60/EC".</p> <p>By restricting the scope to supplementary measures under the WFD, the Regulation now seems to state that the minimum requirements only apply when treated urban waste water is reused <u>as a supplementary measure</u> and do not apply when treated urban waste water is reused in any other circumstance. This creates an undesirable situation where water can be reused without falling under the Regulation.</p>

THE NETHERLANDS

Water Reuse Regulation - Written comments 20 March 2019

The Netherlands appreciates the Presidency non-paper on Articles 1,4,5,6, 7, 8 and welcomes the opportunity to provide written comments on the Commission Proposal for a Regulation setting minimum quality criteria for water reuse. Please find our comments per article below. It should be read in combination with the comments made at an earlier stage. We reserve the opportunity to build on these comments at a later stage.

Article 3

Presidency proposal	NL text proposal
<i>Article 3</i> 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.	12. “point of compliance” means the point where the requirements specified by this Regulation have to be met. The point of compliance <u>can be is at</u> the outlet of the reclamation plant.
Justification The Regulation states criteria that have to be met at the point of compliance. In the opinion of the Netherlands this point of compliance has to be defined in the Regulation itself. We propose a suggestion in line with the original proposal of the Commission. But NL is also open to consider other suggestions that would make it clear at what point the criteria have to be complied with.	

Article 4

Presidency proposal	NL text proposal
Obligations of reclamation plant operators as regarding <u>reclaimed</u> water quality and obligations of the end users as regards reclaimed water use	Obligations of reclamation plant operators as regarding <u>reclaimed</u> 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.	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: (e) the minimum requirements for water quality laid down in Section 2 of Annex I; (f) 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:	1. 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:

<p>(c) section 2 of Annex I;</p> <p>(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.</p> <p>3. The reclamation plant operators and the end users shall inform cooperate the end users to ensure that about the reclaimed water quality classes 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.</p> <p>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. 3</p> <p>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.</p> <p>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.</p>	<p>(a) section 2 of Annex I;</p> <p>(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 monitoring.</p> <p>2. The reclamation plant operators and the end users shall inform cooperate the end users to ensure that about the reclaimed water quality classes 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.</p> <p>3. The risk flagged by the Risk Assessment water quality required to comply with Regulation 852/2004 may be addressed by a multibarrier approach, 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. 3</p> <p>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.</p>
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Justification

Regarding paragraph 3: the end user has no role in the treatment process and can therefore not cooperate with the reclamation plant operator to ensure that properly treated water is produced. We suggest to go back to the previous proposal by the Presidency that the operator has to inform about the quality reached. That this quality is based on the needs of the end user(s) is common sense and part of market forces – the principle of supply and demand. This does not have to be laid down in legislation.

Regarding paragraph 4: The Regulation on hygiene of foodstuffs is focused solely on the hygiene of foodstuffs. This Regulation and its Risk Assessment have a broader scope and include health safety and the environment as well. This paragraph wants to address the multibarrier approach and should therefore not focus solely on the Regulation on hygiene of foodstuffs, but on all risks that come out of the Risk Assessment.

Regarding paragraph 5: This Regulation focusses on the point of compliance at the outlet of the reclamation plant. If this outlet (point where water is given to end user) is after transport and storage, this is automatically included. If not, then the Regulation cannot address it as nobody is made responsible for it.

Article 5: Risk management

Presidency proposal	NL text proposal
<p>Article 5 Risk management</p> <p>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:</p> <p>(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.</p> <p>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.</p> <p>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.</p> <p>3. The Commission is empowered to adopt, in accordance with Article 14, delegated acts [...]</p>	<p>1 <u>The applicant for the permit is responsible for the elaboration of a Water Reuse Risk Management plan.</u></p> <p>2. <u>The responsible party or authority shall consult 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 propose any additional requirements to those specified in Annex I necessary to further mitigate any risks and shall, inter alia, identify hazards and risks.</u></p>
<p>Justification</p>	
<p>We remain of the opinion that the proposal leads to a new problem regarding the need to transpose the Regulation into national legislation, which we consider an unnecessary burden.</p> <p>In our opinion a MS should not be responsible for designating the responsible party for drawing up the Management Plan. This should be made clear in this regulation and this responsibility should lie with the person or entity applying for the permit.</p> <p>Then on para 2, the proposal of the Presidency seems to divert the responsibility for consultation in anticipation of a permit request from the party that wants a permit, to the MS.</p> <p>We do not feel this is correct. The need for consultation needs to be properly laid down in the regulation and should be on the entity requesting a permit, after which the MS or authority can verify this before granting a permit.</p>	

Article 8bis

Presidency proposal	NL text proposal
<p>Member States shall designate the competent authorities or responsible parties for the purposes of Articles 5, 6, 7 and 8.</p>	<p>Member States shall designate the competent authorities or responsible parties for the purposes of Articles 5, 6, 7 and 8. <u>The competent authority shall be different from the applicant of the permit.</u></p>
<p>Justification</p>	
<p>In the opinion of the Netherlands this proposal is necessary to avoid conflict of interest. We would prefer to include this in article 8, rather than in a recital.</p> <p>In the opinion of the Netherlands the addition of "or responsible parties" leads to problems with transposition as explained in the context of Article 5. We also wonder why this would need to be repeated here, as it is already indicated in Article 5.1 that a MS shall designate the responsible party for the elaboration of the Risk Management Plan.</p> <p>We remain of the opinion that a Member State shouldn't be burdened with ensuring proper consultation and deciding who should do a risk management analysis, this needs to be clear from the Regulation.</p>	

Article 6

Presidency proposal	NL text proposal
<p>Application for Obligations regarding reclaimed water & permit to supply reclaimed water</p> <ol style="list-style-type: none"> 1. Any supply of rR 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 5An 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: <ul style="list-style-type: none"> (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); 	<p>Application for Obligations regarding reclaimed water & permit to supply reclaimed water</p> <ol style="list-style-type: none"> 1. Any supply of rR Reclaimed water destined for a use specified in section 1 of Annex I, shall be subject to a permit. ` 2. <u>The responsible party or authority designated by the Member State pursuant to Article 5</u>An operator <u>The applicant</u> 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. <u>The application shall include at least:</u> <ul style="list-style-type: none"> (a) <u>Water Reuse Risk Management Plan drawn up in accordance with Article 5(2);</u> (b) <u>a description of how the reclamation plant operator will comply with the requirements under its responsibility included in a Water Reuse</u>

- ~~(e) 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.~~

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;

4. The ~~application permit~~ shall include **at least** 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;~~

(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);~~

~~(e) 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.~~

5. 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.**

6. The competent authority may refuse to grant the permit. **Reasons not to grant a permit could be, inter alia: in the following cases:**

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

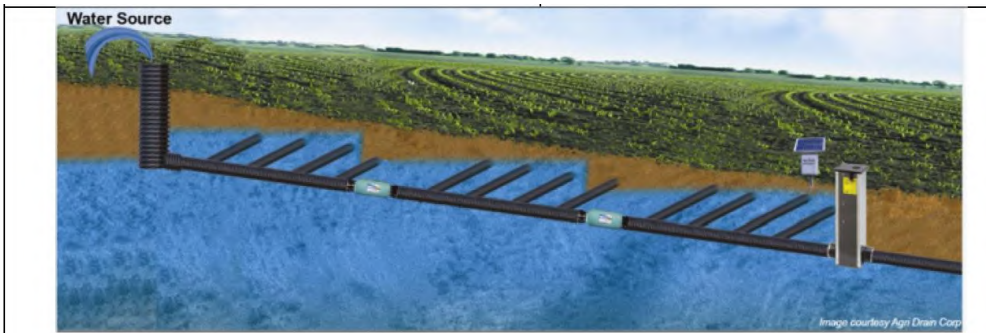
~~b) no pressures on the quantitative status of the groundwater and surface~~

	waters have been identified in accordance with Annex VII Part A point 2 of the Directive 2000/60/EC.
Justification	
<p>Para 2: In the opinion of the Netherlands it is not necessary to put the burden of laying down the responsible party in legislation at the national level. We therefore suggest to rephrase this sentence to make it clear that it is the applicant of a permit that needs to apply at the competent authority.</p> <p>Para 3: The Netherlands is keen on including what should be part of the application in the Regulation. We therefore suggest to keep the input of the previous non-paper in paragraph 3.</p> <p>Para 4: The list of subjects addressed in the permit should be non-exhaustive. It should be allowed for the competent authority to include other issues.</p> <p>Para 6: As mentioned by several MSs during the meeting on the 18th of March the list with reasons not to grant a permit should be non-exhaustive.</p>	

Recital 11

Presidency proposal
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 interest.
Comment
The Netherlands prefers this wording in the recital, of a clear permit focused on the supply of water, but this, however, does not seem to be in line with the current wording of article 6.

Annex I

Presidency proposal	NL text proposal
Annex 1, table 1, class C: "drip irrigation* only".	Annex 1, table 1, class C: drip irrigation* only "only irrigation methods directly into or onto the ground, that avoid the reclaimed water to come into direct contact with the plant."
Justification	
<p>The possibility should be provided to use other types of irrigation, that provide the same level of protection. The goal is to prevent water from this "class" to come into contact with the crops. The Netherlands agrees with this goal, however the restriction to solely allow drip irrigation limits innovation in irrigation systems. In the Netherlands we experiment with irrigation through drains. This innovative irrigation system prevents the water to come into contact with the plants:</p>	
	

Annex II

Presidency proposal	NL text proposal
<i>Annex II (complete text)</i>	Delete all references to responsibilities, measures and monitoring that lay beyond the point of compliance.
Justification	
<p>In the opinion of the Netherlands, the scope of Annex II is not in line with the Regulation. The Regulation is directed at the reclamation plant and its operator. The Annex II focuses on the whole water chain, which is logic. However it also poses requirements and responsibilities after the point of compliance (for example “ensure the monitoring of any negative effects”). These requirements are stated without a body or person who is responsible for them and without possibilities for the competent authority to check compliance and the ability to enforce the legislation. This would lead to problems in implementing and enforcing the Regulation.</p> <p>We therefore suggest to focus the Annex on those responsibilities, measures and monitoring that lay before or at the point of compliance.</p> <p>Another solution might be to change the point of compliance.</p>	

SLOVAKIA

Water reuse Regulation

WPE 18 March 2019

WK 3641/2019 INIT

On Article 8, point 3: We propose to add under which conditions it will be decided that compliance with the minimum water quality requirements has been renewed. Need for completion of the number of controls and time span between inspections.

At the same time, we would like to point out that we still insist on the addition of minimum requirements for the quality of reclaimed water, respectively the addition of the measured parameters and the assessment of the reclaimed water not only from a microbiological point of view (references in Article 4 to the minimum water quality requirements specified in Annex I, Part 2).

We have no further comments on the currently discussed articles.

SLOVENIA

Regulation on minimum requirements for water reuse

- WPE 18th of March 2019 –

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

Slovenia welcomes the efforts of the Presidency and the progress as regards the text of the articles in question.

In any case the final opinion on particular articles will be expressed after considering the relevant Annexes as well, but we would already in this stage like to express some preliminary comments.

REGARDING RECITAL (25bis)

“(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.”

The second sentence should be revised as follows to strictly summarize the mentioned Annex of the Directive 2000/60/ES:

“From the non-exclusive list of supplementary measures provided for in Annex VI Part B of Directive 2000/60/EEC contains Member States within each river basin district may choose to adopt, among others, water reuse measures as part of the programme of measures required under Article 11(4) of that Directive.”

In the end of the last sentence the expression “*for agricultural irrigation*” should be added. Namely, this Regulation is only relevant for the purpose of agricultural irrigation, as clearly defined in Article 1, and not for any other possible purposes, for which treated urban waste water might be used (for example car washing or any other):

“(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 **for agricultural irrigation.”**

REGARDING ARTICLE 1, PARAGRAPH 1

“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.”

Second paragraph of paragraph 1 should be revised as follows to strictly define, that the obligations from this Regulation only concern those Member States that re-use waste water in practice:

“These ~~minimum requirements~~ Regulation 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.~~”

In the same time the last part of the sentence, namely link to the supplementary measures referred to the Annex VI of the Directive 2000/60/ES, should be deleted, since there (in that Annex itself) is a clear possibility for Member State to decide (“*MS may choose to adopt*”) on the most appropriate solution as regards organizational and legal system – and on the most appropriate act by which this decision would be adopted. The flexibility of the Directive 2000/60/ES should not be reduced by this Regulation. It might be the case that in particular Member State this decision will be adopted by another legal act – in which case water reuse measures would be a part of the basic measures since basic measures represent measures already in place according to other legal acts.

SLOVENIA

Regulation on minimum requirements for water reuse

- WPE 18th of March 2019 –

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

REGARDING ARTICLE 3 - insertion of a new definition on the point of compliance

The definition should be clearer and in this sense it should be revised (for example) as follows:
“12. “point of compliance” means the point where the requirements specified by this Regulation have to be met. The point of compliance **can** shall be the outlet of the reclamation plant.”

REGARDING ARTICLE 4, PARAGRAPH 3

It is not clear what is meant by “cooperation” of reclamation plant operator and the end users. Clarification is needed what kind of measures or activities should be done regarding this cooperation in practice and whose responsibility is the initiation for this cooperation, considering the fact, that the reclamation plant operator obtains the permit, but it is not (yet) clear if particular permit also addresses the end user.

REGARDING ARTICLE 4, PARAGRAPH 4

Scrutiny reservation.

REGARDING ARTICLE 4, PARAGRAPH 5

Scrutiny reservation.

REGARDING ARTICLE 5

Slovenia welcomes the flexibility in Article 5 that enables Member States to define the distribution of responsibilities at national level in accordance with national organizational and legal system. The article is acceptable for Slovenia.

Nevertheless, Slovenia supports the previous proposals of some Member States, that:

- Member States should be enabled to adapt the provisions / obligations / procedures in accordance with the capacity of the system, or such adaptations / exemptions should be included in the regulation itself (for example reuse of waste water from individual WWTPs – i.e. from WWTP < 50 PE),
- key risk management task should be included in the provisions of the article and Annex II revised to more clearly define technical specification of the Risk Management Plan. The solution to empower the Commission to adopt delegated act should therefore be reconsidered.

REGARDING ARTICLE 6

Scrutiny reservation.

It is not possible to evaluate all the consequences at this stage, since it is not completely clear if there will be one or two permits needed at national level, in case of deciding to re-use treated waste water for agricultural irrigation. Similar to the system, presented by Portugal, also in Slovenia there is a need to obtain a permit for water use in accordance with Water Act (since water, in general, is public good), and in addition, a permit for the operation or waste water treatment plant (or reclamation plant) is needed as well in accordance with Environmental Act. According to national legal system it is not clear at this stage, if environmental permit (in accordance with Environmental Act) can cover the operation of reclamation plant; in any case a revision or adaptation (or a new) legal act will be needed.

Slovenia would appreciate additional presentations of national systems in place in other Member States to better understand the obligations and to be able to better evaluate the consequences.

Nevertheless, we would preliminary have same proposals as follows:

REGARDING ARTICLE 6, PARAGRAPH 3

We would, at this stage, propose to:

- clearly delineate (separately) the content of the application for the permit and the content of the permit itself. In the same time the list (the content) should be defined as “minimum content” to enable Member States to add or to adapt the contents of both to national / local circumstances;
- reconsider defining the end users in the permit itself; the permit should address requirements for the reclaimed water and possibly the use or uses for which the reclaimed water is requested; it would be unnecessary additional burden to modify existing permit in cases that end user(s) change;
- define Water Reuse Risk Management Plan as a part of the application and not as an integral part of the permit.

And finally, we would like to emphasize, that it is not clear what would be the added value of the replacing the word “permit” by “authorization”. In Slovene translation the both expressions mean a prescribed procedure and decision, ending with a legal decision (a paper - called “permit” or “consent”). The administrative and financial burden would therefore be the same. Additional explanation / clarification of the proposal would be appreciated.

REGARDING ARTICLE 6, PARAGRAPH 4

Acceptable for Slovenia.

REGARDING ARTICLE 6, PARAGRAPH 5

Slovenia shares the opinions of some Member States, that the list of criteria for refusing to grant a permit (if kept in the text) should not be limited to the two proposed criteria. At least the criteria regarding impact on the environment should be added, as proposed below, and the list should be kept open to decide on any other criteria at national level.

Additional criteria to be considered as part of article 6 or even as part of article 1.

“Member States may decide **not to allow the reuse of treated waste water for agricultural irrigation whenever they consider that such use may influence the achievement of environmental objectives for water.”**

REGARDING RECITAL 11

Recital 11 is acceptable for Slovenia.

Nevertheless, it is not completely clear what is meant by the provision, that ”..., **Member States should ensure that there is no conflict of interests.**” included in the last sentence.

REGARDING ARTICLE 7

Slovenia supports the proposals and shares the opinions of some Member States, that:

- article 6 and 7 should remain separate (not to be merged),
- permit in accordance with this regulation should not be merged with the permit in accordance with UWWTD – decision on that should remain national responsibility / opportunity – to define the procedures and permits in accordance with national organizational and legal system,
- article 6 should address the procedure, content of the application, content of the permit
- article 7 should address some harmonized criteria for refusing of permit / authorization – or some common (minimum) criteria for granting the permit to avoid negative connotation by addressing the criteria for refusing,
- if criteria will be included, some flexibility should be kept anyway, to adapt this criteria to national circumstances.

REGARDING ARTICLE 8

Scrutiny reservation.

It is not clear what the consequences of implementation of paragraph 3 are – it is not clear if in the case of suspension of the use or reclaimed water any legal protection should be ensured for the end user or even a right to (financial?) compensation, considering the fact, that he/she expects to get the agreed quantity of (reclaimed) water to irrigate crops.

REGARDING ARTICLE 8bis

The article is acceptable for Slovenia.
