Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (recast) (Text with EEA relevance)

DIRECTIVE (EU) 2020/2184 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 December 2020

on the quality of water intended for human consumption

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Council Directive 98/83/EC[(4)] has been substantially amended several times[(5)]. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

(2) Directive 98/83/EC set the legal framework to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. This Directive should pursue the same objective and should improve access to such water for all in the Union. To that end, it is necessary to lay down at Union level the minimum requirements with which water intended for that purpose should comply. Member States should take the necessary measures to ensure that water intended for human consumption is free from any micro-organisms and parasites and from any substances which, in numbers or concentrations, in certain cases, constitute a potential danger to human health, and that it meets those minimum requirements.

(3) It is necessary to exclude from the scope of this Directive natural mineral waters and waters which are medicinal products, since such types of water are covered by Directives 2009/54/EC[(6)] and 2001/83/EC[(7)] of the European Parliament and of the Council respectively. However, Directive 2009/54/EC deals with both natural mineral waters and spring waters, and only the former category should be exempted from the

scope of this Directive. In accordance with the third subparagraph of Article 9(4) of Directive 2009/54/EC, spring waters should comply with this Directive and, with regard to microbiological requirements, spring water should comply with Directive 2009/54/EC. In the case of water intended for human consumption put into bottles or containers intended for sale, or used in the manufacture, preparation or treatment of food, such water should, as a matter of principle, continue to comply with this Directive until the point of compliance, namely the tap, and should after that point be considered as food if it is intended to be, or reasonably expected to be, ingested by humans, in accordance with Regulation (EC) No 178/2002 of the European Parliament and of the Council[8].
In addition, food business operators that have their own water source and use it for the specific purposes of their business should be able to be exempted from this Directive provided that they comply with relevant obligations, in particular regarding hazard analysis and critical control point principles and remedial actions under relevant Union legislation on food. Food business operators that have their own water source and act as water suppliers should comply with this Directive in the same way as any other water supplier.

(4) Following the conclusion of the European citizens' initiative on the right to water ('the Right2Water initiative'), the Commission launched a Union-wide public consultation and performed a Regulatory Fitness and Performance (REFIT) Evaluation of Directive 98/83/EC. It became apparent from that exercise that certain provisions of that Directive 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 that come into contact with water intended for human consumption and the implications such disparities have for human health. In addition, the Right2Water initiative identified as a distinct problem the fact that part of the population, in particular marginalised groups, has no access to water intended for human consumption, and providing such access is a commitment under Goal 6 of the Sustainable Development Goals (SDGs) of the United Nations 2030 Agenda for Sustainable Development.
A final issue identified is the general lack of awareness of water leakages, which are driven by underinvestment in maintenance and renewal of water infrastructure, as also pointed out in the European Court of Auditors' Special Report No 12/2017 of 5 July 2017'Implementing the Drinking Water Directive: water quality and access to it improved in Bulgaria, Hungary and Romania, but investment needs remain substantial'.

(5) In 2017, the World Health Organization (WHO) Regional Office for Europe conducted a detailed review of the list of parameters and parametric values laid down in Directive 98/83/EC in order to establish whether there is a need to adapt that list in light of technical and scientific progress. In view of the results of that review, enteric pathogens and *Legionella* should be controlled and six chemical parameters or parameter groups should be added. For four of the six new parameters or parameter groups, parametric values that are more stringent than those proposed by the WHO, though nonetheless feasible, should be laid down in light of other recent scientific opinions and the precautionary principle. For one of the new parameters, the number of representative

substances should be reduced and the value adapted. For chromium, the value remains under WHO review and a transitional period of 15 years should therefore apply before the value becomes more stringent. In addition, the WHO recommended that three representative endocrine-disrupting compounds may be considered as benchmarks, for assessing the occurrence of endocrine-disrupting compounds and their treatment efficacy where necessary, with values of 0,1 μg/l for Bisphenol A, 0,3 μg/l for Nonylphenol and 1 ng/l for Beta-estradiol.
However, based on a 2015 opinion of the European Food Safety Authority (EFSA), it was decided that one of those three compounds, Bisphenol A, should be added to this Directive with a health-based parametric value of 2,5 μg/l. Furthermore, Nonylphenol and Beta-estradiol should be added to the watch list to be established by the Commission pursuant to this Directive.

(6) In relation to lead, the WHO recommended retaining the current parametric value, but noted that concentrations should be as low as reasonably practicable. Therefore, it should be possible to retain the current value of 10 μg/l for 15 years after the date of entry into force of this Directive. By the end of this transitional period, at the latest, the parametric value for lead should be 5 μg/l. In addition, since existing lead pipes in houses and buildings are a persisting issue and since Member States do not always have the necessary authority to impose the replacement of those pipes, the value of 5 μg/l should remain aspirational when it comes to obligations related to domestic distribution systems. However, for all new materials that come into contact with water intended for human consumption, regardless of whether they are to be used in supply or domestic distribution systems, to be authorised in accordance with this Directive, the value of 5 μg/l should apply at the tap.

(7) In order to address growing public concern about the effects of emerging compounds, such as endocrine-disrupting compounds, pharmaceuticals and microplastics, on human health through use of water intended for human consumption, and to address new emerging compounds in the supply chain, a watch list mechanism should be introduced in this Directive. The watch list mechanism will make it possible to respond to growing concerns in a dynamic and flexible way. It will also enable follow-up on new knowledge about the relevance for human health of those emerging compounds and on new knowledge about the most appropriate monitoring approaches and methodologies. This watch list mechanism for water intended for human consumption is part of the response to various relevant Union policies, as set out in the communication of the Commission of 11 March 2019‘European Union Strategic Approach to Pharmaceuticals in the Environment’, the communication of the Commission of 7 November 2018‘Towards a comprehensive European Union framework on endocrine disruptors’ and the Council Conclusions of 26 June 2019‘Towards a Sustainable Chemicals Policy Strategy of the Union’.

(8) The WHO also recommended that three parametric values be made less stringent and five parameters be removed from the list of parameters and parametric values laid down in Directive 98/83/EC. However, not all of those changes are considered necessary, as the risk-based approach introduced by Commission Directive (EU) 2015/1787[(9)] allows water suppliers to remove a parameter from the list of parameters to be monitored under

certain conditions. Treatment techniques to meet those parametric values are already in place.

(9) The parametric values laid down in this Directive are based on the scientific knowledge available and the precautionary principle and are selected to ensure that water intended for human consumption can be consumed safely on a life-long basis, thus ensuring a high level of health protection.

(10) A balance should be struck to prevent both microbiological and chemical risks and, to that end and in light of a future review of the parametric values, the establishment of parametric values applicable to water intended for human consumption should be based on public health considerations and on a method of risk assessment.

(11) Indicator parameters have no direct public health impact. However, they are important as a means of determining how production and distribution facilities for water intended for human consumption are functioning, and of evaluating water quality. Such parameters can help to identify water treatment deficiencies and play an important role in increasing and maintaining consumer confidence in water quality. Therefore, Member States should ensure that such parameters are monitored.

(12) Where necessary to protect human health within their territories, Member States should be required to set values for additional parameters not included in Annex I, based on the precautionary principle.

(13) Safe water intended for human consumption means not only the absence of harmful micro-organisms and substances, but also the presence of certain amounts of natural minerals and essential elements, taking into consideration that long-term consumption of demineralised water or water very low in essential elements such as calcium and magnesium can compromise human health. A certain amount of such minerals is also vital in order to ensure that water intended for human consumption is neither aggressive nor corrosive and to improve the taste of such water. Minimum concentrations of such minerals in softened or demineralised water could be considered in accordance with local conditions.

(14) Preventive safety planning and risk-based elements were only considered to a limited extent in Directive 98/83/EC. The first elements of a risk-based approach were introduced in 2015 in Directive (EU) 2015/1787, allowing Member States to derogate from their established monitoring programmes, provided that credible risk assessments are carried out which could be based on the WHO's Guidelines for Drinking Water Quality (WHO Guidelines). The WHO Guidelines, which lay down the so-called 'Water Safety Plan' approach, including for small communities, together with standard EN 15975-2 concerning security of drinking water supply, are internationally recognised principles on which the production and distribution of water intended for human consumption, and the monitoring and the analysis of parameters in such water, are based. Those first elements of a risk-based approach should be maintained in this Directive.

(15) To ensure that the elements of a risk-based approach introduced in Directive (EU) 2015/1787 are not limited to monitoring aspects, to focus time and resources on

relevant risks and on cost-effective source measures, and to avoid analyses of and effort being spent on non-relevant issues, it is appropriate to introduce a complete risk-based approach to water safety, covering the whole supply chain from the catchment area, abstraction, treatment, storage and distribution to the point of compliance. That approach should be based on the knowledge gained and actions carried out under Directive 2000/60/EC of the European Parliament and of the Council[(10)] and should take into account more effectively the impact of climate change on water resources. That risk-based approach should consist of three components. First, identification of the hazards associated with the catchment areas for abstraction points ('risk assessment and risk management of the catchment areas for abstraction points of water intended for human consumption'), in line with the WHO Guidelines and Water Safety Plan Manual. Second, a possibility for the water supplier to adapt monitoring to the main risks and to take the necessary measures to manage the risks identified in the supply chain from the abstraction, treatment, storage and distribution of water ('risk assessment and risk management of the supply system'). Third, an assessment of the potential risks stemming from domestic distribution systems, such as *Legionella* or lead ('risk assessment of the domestic distribution systems'), with special focus on priority premises. Those assessments should be regularly reviewed, inter alia, in response to threats from climate-related extreme weather events, known changes of human activity in the abstraction area or in response to source-related incidents. The risk-based approach should ensure a continuous exchange of information between competent authorities and water suppliers.

(16) In order to reduce the potential administrative burden for water suppliers supplying between 10 m^3 and 100 m^3 per day as an average or serving between 50 and 500 people, Member States should be able to exempt those water suppliers from carrying out a risk assessment of the supply system, provided that regular monitoring in accordance with this Directive is carried out. As an exception, the implementation of the risk-based approach should be adapted to the specific constraints of maritime vessels that desalinate water and carry passengers. Union flag maritime vessels comply with the international regulatory framework when sailing in international waters. It should be ensured that priority is given to existing international regulations or internationally acknowledged standards, such as the vessel sanitation programme developed by the United States Public Health Service, which are more detailed and more stringent and apply to ships on international waters.

(17) Risk assessment and risk management of the catchment areas for abstraction points should take a holistic approach and be geared towards reducing the level of treatment required for the production of water intended for human consumption, for instance by reducing the pressures causing the pollution, or a risk of pollution, of water bodies used for abstraction of water intended for human consumption. To that end, Member States should characterise the catchment areas of abstraction points, and identify hazards and hazardous events that could cause the quality of water to deteriorate, such as possible pollution sources associated with those catchment areas.
When necessary in light of the identification of hazards, Member States should monitor pollutants which they identify as relevant, such as nitrates, pesticides or pharmaceuticals

identified under Directive 2000/60/EC, or because of their natural presence in the abstraction area, such as in the case of arsenic, or because of information from water suppliers, for example regarding a sudden increase of the concentration of a specific parameter in raw water. Where surface waters are used for water intended for human consumption, Member States should pay particular attention in their risk assessment to microplastics and endocrine-disrupting compounds, such as Nonylphenol and Beta-estradiol, and should, where necessary, require water suppliers to also monitor and, where necessary, carry out treatment for those and other parameters included in the watch list if considered a potential danger to human health. Based on the risk assessment of the catchment areas for abstraction points, management measures to prevent or control the risks identified should be taken to safeguard the quality of the water intended for human consumption. Where a Member State finds, through the identification of hazards and hazardous events, that a parameter is not present in catchment areas for abstraction points, for instance because that substance never occurs in groundwater bodies or surface water bodies, the Member State should inform the relevant water suppliers and should be able to allow them to decrease the monitoring frequency for that parameter, or to remove that parameter from the list of parameters to be monitored, without carrying out a risk assessment of the supply system.

(18) Directive 2000/60/EC requires Member States to identify water bodies used for the abstraction of water intended for human consumption, to monitor them, and to take the necessary measures to avoid deterioration in their quality in order to reduce the level of purification treatment required in the production of water that is fit for human consumption. To avoid any duplication of obligations, Member States should, when carrying out the identification of hazards and hazardous events, use available monitoring results representative of the catchment areas, obtained under Articles 7 and 8 of Directive 2000/60/EC or other relevant Union legislation. Nevertheless, in cases where such monitoring data are not available, monitoring of relevant parameters, substances or pollutants could be put in place in order to support the characterisation of the catchment areas and assess potential risks. Such monitoring should be put in place considering local situations and pollution sources.

(19) The parametric values laid down in this Directive for the purposes of assessing the quality of water intended for human consumption are to be complied with at the point at which the water emerges from the taps that are normally used for water intended for human consumption. However, the quality of water intended for human consumption can be affected by the domestic distribution systems. The WHO notes that, in the Union, *Legionella* causes the highest health burden of all waterborne pathogens. It is transmitted by warm water systems through inhalation, for instance during showering. It is therefore clearly linked to the domestic distribution systems. Since imposing a unilateral obligation to monitor all private and public premises for this pathogen would lead to unreasonably high costs, a risk assessment of domestic distribution systems is more suited to addressing this issue. In addition, the potential risks stemming from products and materials in contact with water intended for human consumption should also be considered in that risk assessment. The risk assessment of domestic distribution systems should therefore include, inter alia, a focus on monitoring

of priority premises, as identified by Member States, such as hospitals, healthcare institutions, retirement homes, childcare facilities, schools, educational institutions, buildings with a lodging facility, restaurants, bars, sports and shopping centres, leisure, recreational and exhibition facilities, penal institutions and campgrounds, and an assessment of the risks stemming from the domestic distribution systems and related products and materials. On the basis of the risk assessment, Member States should take all necessary measures to ensure, inter alia, that appropriate control and management measures are in place, for example in case of outbreaks, in line with the guidance from the WHO, and that the migration of potentially harmful substances from construction products does not endanger human health.

(20) The provisions of Directive 98/83/EC on quality assurance of treatment, equipment and materials did not succeed in creating uniform hygiene requirements for products in contact with water intended for human consumption. As a result, national product approvals are in place, with requirements differing from one Member State to another. This renders it difficult and costly for manufacturers to market their products throughout the Union and it is also costly for Member States. In addition, it makes it difficult for consumers and water suppliers to know if products meet health requirements. Establishing harmonised minimum requirements in this Directive for materials that come into contact with water intended for human consumption will contribute to reaching a uniform level of health protection throughout the Union, as well as a better functioning of the internal market. Moreover, Regulation (EU) 2019/1020 of the European Parliament and of the Council[(11)] lays down a general Union-wide market surveillance mechanism for products, with a view to ensuring that only compliant products that fulfil requirements providing a high level of protection of public interests, such as health and safety in general, health and safety in the workplace, the protection of consumers, the protection of the environment and public security, are made available on the Union market. That Regulation states that, if new Union harmonisation legislation is adopted, it will be for that legislation to specify whether Regulation (EU) 2019/1020 is also to apply to that legislation. In order to ensure that proper market surveillance measures can be taken as regards products that are not already covered by Regulation (EU) 2019/1020 but which would be affected by this Directive, it is appropriate to provide for the application of that Regulation to those products.

(21) The nature of materials that come into contact with water intended for human consumption can have an impact on the quality of such water through the migration of potentially harmful substances, by enhancing microbial growth or by influencing the odour, colour or taste of such water. The evaluation of Directive 98/83/EC found that the provisions on quality assurance of treatment, equipment and materials provided too much legal flexibility, leading to different national approval systems across the Union for materials that come into contact with water intended for human consumption. Therefore, there is a need to establish more specific minimum hygiene requirements for materials intended to be used for the abstraction, treatment, storage or distribution of water intended for human consumption in new installations or in existing installations in the case of repair works or reconstruction, in order to ensure that they do not compromise human health either directly or indirectly, adversely affect the colour,

odour or taste of the water, enhance microbial growth in the water or cause contaminants to leach into the water at levels that are higher than necessary in view of the intended purpose. For this purpose, this Directive should set out specific minimum hygiene requirements for materials, by establishing methodologies for testing and accepting starting substances, compositions and constituents, European positive lists of starting substances, compositions and constituents, methods and procedures for inclusion of starting substances, compositions or constituents in the European positive lists or reviewing their inclusion, and procedures and methods for testing and accepting final materials as used in a product made from combinations of starting substances, compositions or constituents on the European positive lists.

In order not to hamper innovation, the Commission should ensure that such procedures are proportionate, and that they do not place an undue burden on economic operators, in particular small and medium-sized enterprises. To the extent possible, such procedures should be aligned with the existing Union product legislation, in order to avoid a double burden obliging economic operators to carry out different conformity assessments for the same product.

(22) The European positive lists are the lists of starting substances, compositions or constituents, depending on the type of materials, namely organic, cementitious, metallic, enamels and ceramic or other inorganic materials, authorised for use in the manufacture of materials, and those lists should include, where appropriate, conditions for their use and migration limits. For the inclusion of a starting substance, composition or constituent in the European positive lists, a risk assessment of the starting substance, composition or constituent itself, as well as relevant impurities and foreseeable reaction and degradation products in the intended use, should be required. The risk assessment by the applicant or national authority should cover health risks arising from the potential migration under worst foreseeable conditions of use and from the toxicity. Based on the risk assessment, the European positive lists should, if necessary, set out specifications for the starting substance, composition or constituent and restrictions of use, quantitative restrictions or migration limits for the starting substance, composition or constituent, possible impurities and reaction products or constituents in order to ensure the safety of the final material to be used in a product in contact with water intended for human consumption.

For the purpose of establishing the first European positive lists, national positive lists of starting substances, compositions and constituents or other national provisions, the methodologies that led to the establishment of such national lists and provisions, and the accompanying risk assessments for each of the starting substances, compositions and constituents should be made available to the European Chemicals Agency set up under Regulation (EC) No 1907/2006 of the European Parliament and of the Council[12] (‘ECHA’). ECHA should, on that basis, recommend compiled lists to the Commission. ECHA should review and deliver an opinion on the substances, compositions and constituents on the first European positive lists in time for the Commission to review the lists by 15 years after their adoption. For the purposes of updating the European positive lists, ECHA should deliver opinions on the inclusion or removal of substances, compositions or constituents.

(23) In order to facilitate uniform testing of products for compliance with the requirements of this Directive, the Commission should request the European Committee for Standardisation (CEN) to develop standards for uniform testing and assessment of products in contact with water intended for human consumption. When establishing and updating the European positive lists, the Commission should ensure that any relevant acts, or standardisation mandates, which it adopts pursuant to other Union legislation are consistent with this Directive.

(24) Furthermore, no later than nine years after the end date for transposition of this Directive, the functioning of the system introduced by this Directive should be reviewed in order to assess whether human health is being protected throughout the Union and whether the functioning of the internal market in terms of products in contact with water intended for human consumption using approved materials is properly protected. In addition, it should be assessed whether any further legislative proposal on the matter is needed, taking into account in particular the outcome of the evaluations of Regulations (EC) No 1935/2004[(13)] and (EU) No 305/2011[(14)] of the European Parliament and of the Council.

(25) Products in contact with water intended for human consumption should consist of a material, or a combination of materials, approved in accordance with this Directive. However, this Directive only addresses the health and hygiene aspects of materials and substances used in products with regard to their impact on the quality of water intended for human consumption, and the rules for conformity testing and quality control of the final products. It does not address other requirements, such as rules on how to express the performance of products or rules on structural safety, which may be regulated by or stem from Union harmonisation legislation, such as Regulation (EU) No 305/2011 or Regulation (EU) 2016/426 of the European Parliament and of the Council[(15)]. The coexistence of health and hygiene risk aspects harmonised under this Directive and safety or other risk aspects addressed under Union harmonisation legislation would not create any conflicts, provided that there were no overlap in the risks respectively covered. A potential conflict between Regulation (EU) No 305/2011 and this Directive exists, given that the avoidance of the release of dangerous substances into drinking water or substances which have an otherwise negative impact on drinking water is listed in Annex I to Regulation (EU) No 305/2011 as one of the basic requirements for construction works. However, this overlap will not materialise if no standardisation mandate is issued under Regulation (EU) No 305/2011 concerning the health and hygiene aspects of products in contact with water intended for human consumption.

(26) There is a need to ensure effective decision-making, coordination and management at Union level of the technical, scientific and administrative aspects of this Directive related to materials that come into contact with water intended for human consumption. ECHA should carry out tasks specified in this Directive with regard to the evaluation of substances and compositions for materials that come into contact with water intended for human consumption. Consequently, the Committee for Risk Assessment of ECHA set up pursuant to point (c) of Article 76(1) of Regulation (EC) No 1907/2006 should

facilitate the carrying out of certain tasks conferred on ECHA by this Directive by providing opinions.

(27) Treatment chemicals and filter media could be used to treat raw water in order to provide water which is suitable for human consumption. However, treatment chemicals and filter media can present risks to the safety of water intended for human consumption. Therefore, procedures for the treatment and disinfection of water intended for human consumption should ensure the use of treatment chemicals and filter media that are effective, safe and properly managed to avoid adverse effects on consumer health. Treatment chemicals and filter media therefore need to be assessed with regard to their characteristics, hygiene requirements and purity, and should not be used more than necessary to avoid risks for human health. Treatment chemicals and filter media should not enhance microbial growth except where it is intended, such as for enhancement of microbial denitrification.
Member States should guarantee the quality assurance of treatment chemicals and filter media without prejudice to Regulation (EU) No 528/2012 of the European Parliament and of the Council[16] and by using existing European standards when available. It is essential to ensure that each product, as well as containers of chemical reagents and filter media, in contact with water intended for human consumption bears clearly legible and indelible marking when placed on the market, informing consumers, water suppliers, installers, authorities and regulators that the item is fit for use in contact with water intended for human consumption. Moreover, in accordance with Regulation (EU) No 528/2012, Member States are allowed to restrict or ban the use of biocidal products in the supply of drinking water to the public, including in individual supplies.

(28) With the aim of minimising the potential presence of lead content in water intended for human consumption, components made of lead in domestic distribution systems can be substituted, in particular in the event of repair or reconstruction works in existing installations. These components should be substituted by materials which comply with the minimum requirements for materials that come into contact with water intended for human consumption, as established by this Directive. In order to accelerate that process, Member States should consider and, where relevant, take measures for the substitution of components made of lead in existing domestic distribution systems, if economically and technically feasible.

(29) Each Member State should ensure that monitoring programmes are established to check that water intended for human consumption meets the requirements of this Directive. Most of the monitoring to be carried out for the purposes of this Directive will be performed by water suppliers. A certain flexibility should be granted to water suppliers as regards the parameters they monitor for the purposes of risk assessment and risk management of the supply system. If a parameter is not detected, water suppliers should be able to decrease the monitoring frequency or to stop monitoring that parameter altogether. Risk assessment and risk management of the supply system should be carried out for most parameters. However, core parameters should always be monitored at a specified minimum frequency. This Directive mainly sets provisions on monitoring frequency for the purposes of compliance checks, with only limited provisions on monitoring for operational purposes. Additional monitoring for operational purposes

could be necessary to ensure the correct functioning of water treatment. Such additional monitoring should be performed at the discretion of water suppliers. In that regard, water suppliers could refer to the WHO Guidelines and Water Safety Plan Manual.

(30) The risk-based approach should be applied by all water suppliers, including small water suppliers, as the evaluation of Directive 98/83/EC showed deficiencies in its implementation by those suppliers, which were sometimes due to the cost of performing unnecessary monitoring operations. When applying the risk-based approach, security concerns should be taken into account.

(31) In the event of non-compliance with the requirements imposed by this Directive, the Member State concerned should investigate the cause immediately and ensure that the necessary remedial action is taken as soon as possible to restore the quality of the water supplied. In cases where the water supply constitutes a potential danger to human health, the supply of such water should be prohibited or its use restricted. In addition, in the event of failure to meet the minimum requirements for values relating to microbiological and chemical parameters, Member States should consider the failure as a potential danger to human health, except where the non-compliance is considered trivial. In cases where remedial action is necessary to restore the quality of water intended for human consumption, in accordance with Article 191(2) of the Treaty on the Functioning of the European Union (TFEU) priority should be given to action which rectifies the problem at source.

(32) Member States should be authorised, under certain conditions and in duly justified circumstances, to continue to grant derogations from this Directive and in this regard it is necessary to establish a proper framework for such derogations, provided that they do not constitute a potential danger to human health and provided that the supply of water intended for human consumption in the area concerned cannot be maintained by any other reasonable means. Those derogations should be limited to specific cases. Derogations granted by Member States pursuant to Directive 98/83/EC and still applicable at the end date for transposition of this Directive should continue to apply until the end of the derogation and renewed under this Directive only where a second derogation has not yet been granted.

(33) The Commission, in its communication of 19 March 2014 on the European Citizens' Initiative 'Water and sanitation are a human right! Water is a public good, not a commodity!', invited Member States to ensure access to a minimum water supply for all citizens, in accordance with the WHO recommendations. It also committed to continue to 'improve access to safe drinking water […] for the whole population through environmental policies'. This is in line with SDG 6 and the associated target to 'achieve universal and equitable access to safe and affordable drinking water for all'. To address the aspects of access to water which are related to quality and availability and as part of the reply to the Right2Water initiative, and to contribute to the implementation of Principle 20 of the European Pillar of Social Rights that states that 'everyone has the right to access essential services of good quality, including water', Member States should tackle the issue of access to water at national level whilst enjoying some discretion as to the exact type of measures to be implemented. This should be done

through actions aimed at improving access to water intended for human consumption for all, in particular by setting up outdoor and indoor equipment in public spaces where technically feasible, as well as through actions aimed at promoting the use of tap water, for example by encouraging the free provision of water intended for human consumption in public administrations and public buildings or, for free or for a low service fee, for customers in restaurants, canteens and catering services.

(34) The Union and the Member States have committed themselves, within their respective competences, to achieving the SDGs, whilst recognising the primary responsibility of Member States in the follow-up and review, at national, regional and global levels, of progress towards those goals. Some of the SDGs and the right to water do not fall within the Union's environment policy or the Union's social policy, which is limited and complementary in nature. Whilst bearing in mind the limits of Union competence, it is nevertheless appropriate to ensure that Member States' continued commitment to the right to water is in accordance with this Directive, whilst respecting the principle of subsidiarity. In this regard, Member States currently undertake considerable efforts to improve access to water intended for human consumption. In addition, the United Nations Economic Commission for Europe (UNECE) and WHO Regional Office for Europe's Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, to which many Member States are also Parties, aims to protect human health through better water management and by reducing water-related diseases. Member States could make use of the guidance documents developed under the remit of that Protocol to assess the policy background and the baseline situation on access to water and to define the actions necessary to improve equitable access for all to water intended for human consumption.

(35) The European Parliament, in its resolution of 8 September 2015 on the follow-up to the European citizens' initiative Right2Water[17], requested that Member States pay special attention to the needs of vulnerable groups in society. The specific situation of minority cultures, such as Roma and Travellers, whether sedentary or not, and in particular their lack of access to water intended for human consumption, was also acknowledged in the communication of the Commission of 2 April 2014'Report on the implementation of the EU Framework for National Roma Integration Strategies' and the Council Recommendation of 9 December 2013 on effective Roma integration measures in the Member States. In light of that general context, it is appropriate that Member States pay particular attention to vulnerable and marginalised groups by taking the necessary measures to improve access to water intended for human consumption for those groups. Without prejudice to the right of the Member States to define those groups, it would be important that such groups include refugees, nomadic communities, homeless people and minority cultures such as Roma and Travellers, whether sedentary or not. Such measures to improve access, left to the appreciation of the Member States, might, for example, include providing alternative supply systems, such as individual treatment devices, providing water through the use of tankers, such as trucks and cisterns, and ensuring the necessary infrastructure for camps.

(36) In order to make consumers more aware of the implications of water consumption, they should receive information in an easily accessible manner, for instance on their invoices

or by smart application, on the volume consumed per year, changes in consumption, a comparison with average household consumption where such information is available to the water supplier, as well as on the price per litre of water intended for human consumption, thereby allowing a comparison with the price of bottled water.

(37) The 7th Environment Action Programme to 2020, 'Living well, within the limits of our planet'[(18)], requires that the public have access to clear environmental information at national level. Directive 98/83/EC only provided for passive access to information, meaning that Member States merely had to ensure that information was available. Those provisions should therefore be replaced to ensure that up-to-date information is accessible to consumers on-line, in a user-friendly and customised way. Consumers should also be able to request access to this information by other means, upon justified request.

(38) The up-to-date information to be provided under this Directive should include results from monitoring programmes, information on types of water treatment and disinfection applied, information on exceedance of the parametric values relevant for human health, relevant information on risk assessment and risk management of the supply system, advice on how to reduce water consumption and avoid health risks due to stagnant water, but also additional information that the public could find useful, such as information on indicators such as iron, hardness and minerals, which often influence consumers' perceptions of tap water. In addition, as a response to consumer interest in water issues, consumers should be given access, upon request, to available historical data on monitoring results and exceedances.

(39) In relation to water suppliers supplying at least 10 000 m^3 per day or serving at least 50 000 people, additional information on, inter alia, performance efficiency, leakage rates, ownership structure and tariff structure should also be available to consumers on-line.

(40) The purpose of better consumer knowledge of relevant information and improved transparency should be to increase citizens' confidence in the water supplied to them, as well as in water services, and should lead to an increased use of tap water as drinking water, which could contribute to reduced plastic usage and litter and greenhouse gas emissions, and a positive impact on climate change mitigation and the environment as a whole.

(41) With the improvement of monitoring techniques, leakage rates have become increasingly apparent. To improve the efficiency of water infrastructure including avoiding over-exploitation of scarce resources of water intended for human consumption, water leakage levels should be assessed by all Member States and reduced if they are above a certain threshold.

(42) Directive 2003/4/EC of the European Parliament and of the Council[(19)] is aimed at guaranteeing the right of access to environmental information in the Member States in line with the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters[(20)] ('Aarhus Convention'). The Aarhus Convention encompasses broad obligations related both to making environmental information available upon request and actively disseminating such information. Directive 2007/2/EC of the European Parliament and of the

Council[21] is also of broad scope, covering the sharing of spatial information, including data sets on different environmental topics. It is important that provisions of this Directive related to access to information and data-sharing arrangements complement those Directives and do not create a separate legal regime. Therefore, the provisions of this Directive regarding information to the public and information on monitoring of implementation should be without prejudice to Directives 2003/4/EC and 2007/2/EC.

(43) Directive 98/83/EC did not set out reporting obligations for small water suppliers. To remedy this and to address the need for implementation and compliance information, a new system should be introduced in this Directive whereby Member States are required to set up, keep up-to-date and make accessible to the Commission and the European Environment Agency ('the EEA') data sets containing only relevant data, such as exceedances of parametric values and incidents of a certain significance. This should ensure that the administrative burden on all entities remains as limited as possible. To ensure that the appropriate infrastructure for public access, reporting and data-sharing between public authorities exists, Member States should base the data specifications on Directive 2007/2/EC and its implementing acts.

(44) Data reported by Member States are not only necessary for the purposes of compliance checking, but are also essential to enable the Commission to monitor and assess this Directive in relation to the objectives it pursues, in order to inform any future evaluation of this Directive in accordance with paragraph 22 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[22]. In that context, there is a need for relevant data that will allow better assessment of the efficiency, effectiveness, relevance and Union value added of this Directive, hence the necessity to ensure that appropriate reporting mechanisms exist that can also serve as indicators for future evaluations of this Directive.

(45) Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, the Commission should carry out an evaluation of this Directive within a certain period of time from the date set for its transposition. That evaluation should be based on experience gained and data collected during the implementation of this Directive, on any available WHO recommendations, and on relevant scientific, analytical and epidemiological data.

(46) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to promote the principles relating to health care, access to services of general economic interest, environmental protection and consumer protection.

(47) The effectiveness of this Directive and its aim of protecting human health in the context of the Union's environment policy require that natural or legal persons, or where appropriate their duly constituted organisations, be able to rely on it in legal proceedings and that the national courts be able to take this Directive into consideration as an element of Union law in order, inter alia, to review decisions of a national authority where appropriate. In addition, according to settled case law of the Court of Justice, under the principle of sincere cooperation laid down in Article 4(3) of the Treaty on European Union (TEU), it is for the courts of the Member States to ensure judicial protection of

a person's rights under Union law. Furthermore, Article 19(1) TEU requires Member States to provide remedies sufficient to ensure effective judicial protection in the fields covered by Union law.

This applies particularly in respect of a Directive which has the objective of protecting human health from the adverse effects of any contamination of water intended for human consumption. In addition, in accordance with the Aarhus Convention, members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being. By Council Decision (EU) 2018/881[(23)], the Commission was requested to carry out a study by 30 September 2019 and, if appropriate in light of the study, to submit by 30 September 2020 a proposal to amend Regulation (EC) No 1367/2006 of the European Parliament and of the Council[(24)], in order to address the findings of the Aarhus Convention Compliance Committee in case ACCC/C/2008/32. The Commission submitted the study by that deadline and stated, in its Communication of 11 December 2019 on the European Green Deal, that it 'will consider revising the Aarhus Regulation to improve access to administrative and judicial review at EU level for citizens and NGOs who have concerns about the legality of decisions with effects on the environment'. It is important that the Commission also take action to improve access to justice by citizens and NGOs before national courts in all Member States.

(48) In order to adapt this Directive to scientific and technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of setting a threshold for leakages, determining the conformity assessment procedure for products in contact with water intended for human consumption, laying down a procedure for applications to ECHA to include in or remove from the European positive lists starting substances, compositions or constituents, establishing a marking for products in contact with water, adopting a methodology to measure microplastics, amending Annex III and amending the parametric value for Bisphenol A in Part B of Annex I. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. In addition, the empowerment laid down in Note 10 of Part C of Annex I to Directive 98/83/EC, to set monitoring frequencies and monitoring methods for radioactive substances, has become obsolete due to the adoption of Council Directive 2013/51/Euratom[(25)] and should therefore be deleted. The empowerment laid down in the second subparagraph of Part A of Annex III to Directive 98/83/EC concerning amendments of the Directive is no longer necessary and should be deleted.

(49) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission for the adoption of methodologies for testing and accepting starting substances, compositions and

constituents, of European positive lists of starting substances, compositions and constituents and of procedures and methods for testing and accepting final materials made from those starting substances, compositions and constituents. Implementing powers should also be conferred on the Commission for the adoption of the format of, and modalities for presenting, the information to be provided by Member States and compiled by the EEA on the implementation of this Directive, as well as to establish and update a watch list. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(26)].

(50) Without prejudice to Directive 2008/99/EC of the European Parliament and of the Council[(27)], Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and should take all measures necessary to ensure that they are implemented. The penalties should be effective, proportionate and dissuasive.

(51) In order for water suppliers to have a full set of data available when they start carrying out the risk assessment and risk management of the supply system, a transition period of three years should be introduced for new parameters. This will allow Member States to carry out the identification of hazards and hazardous events during those first three years after the end date for transposition of this Directive, and to provide data to water suppliers on the new parameters, thereby avoiding any unnecessary monitoring by water suppliers if it is found that a parameter does not need to be monitored further to the first identification of hazards and hazardous events. During those initial three years, water suppliers should nevertheless carry out the risk assessment of the supply system, or use existing risk assessments already carried out under Directive (EU) 2015/1787, for those parameters that were part of Annex I to Directive 98/83/EC, given that data will already be available for those parameters when this Directive enters into force.

(52) Directive 2013/51/Euratom lays down specific arrangements for the monitoring of radioactive substances in water intended for human consumption. Therefore, this Directive should not set out parametric values on radioactivity.

(53) Since the objectives of this Directive, namely to protect human health and to improve access to water intended for human consumption, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(54) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.

(55) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Part B of Annex VI,

HAVE ADOPTED THIS DIRECTIVE:

(**1**) OJ C 367, 10.10.2018, p. 107.

(**2**) OJ C 361, 5.10.2018, p. 46.

(**3**) Position of the European Parliament of 28 March 2019 (not yet published in the Official Journal) and position of the Council at first reading of 23 October 2020 (not yet published in the Official Journal). Position of the European Parliament of 15 December 2020 (not yet published in the Official Journal).

(**4**) Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

(**5**) See Annex VI, Part A.

(**6**) Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (OJ L 164, 26.6.2009, p. 45).

(**7**) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

(**8**) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

(**9**) Commission Directive (EU) 2015/1787 of 6 October 2015 amending Annexes II and III to Council Directive 98/83/EC on the quality of water intended for human consumption (OJ L 260, 7.10.2015, p. 6).

(**10**) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

(**11**) Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

(**12**) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

(**13**) Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

(**14**) Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

(**15**) Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC (OJ L 81, 31.3.2016, p. 99).

(**16**) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

(**17**) OJ C 316, 22.9.2017, p. 99.

(**18**) Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’ (OJ L 354, 28.12.2013, p. 171).

(**19**) Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

(**20**) OJ L 124, 17.5.2005, p. 4.

(**21**) 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).

(**22**) OJ L 123, 12.5.2016, p. 1.

(**23**) Council Decision (EU) 2018/881 of 18 June 2018 requesting the Commission to submit a study on the Union's options for addressing the findings of the Aarhus Convention Compliance Committee in case ACCC/C/2008/32 and, if appropriate in view of the outcomes of the study, a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1367/2006 (OJ L 155, 19.6.2018, p. 6).

(**24**) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p. 13).

(**25**) Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12).

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

(**27**) Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).