Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse (Text with EEA relevance)

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on minimum requirements for water reuse

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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) The water resources of the Union are increasingly coming under pressure, leading to water scarcity and a deterioration in water quality. In particular, climate change, unpredictable weather patterns and drought are contributing significantly to the strain on the availability of freshwater, arising from urban development and agriculture.

(2) The Union's ability to respond to the increasing pressures on water resources could be improved by wider reuse of treated waste water, limiting extraction from surface water bodies and groundwater bodies, reducing the impact of discharge of treated waste water into water bodies, and promoting water savings through multiple uses for urban waste water, while ensuring a high level of environmental protection. Directive 2000/60/EC of the European Parliament and of the Council[(4)] mentions water reuse, in combination with the promotion of the use of water-efficient technologies in industry and water-saving irrigation techniques, as one of the supplementary measures Member States may choose to apply to achieve that Directive's objectives of good qualitative and quantitative water status for surface water bodies and groundwater bodies. Council Directive 91/271/EEC[(5)] requires that treated waste water be reused whenever appropriate.

(3) The communication of the Commission of 14 November 2012 'A Blueprint to Safeguard Europe's Water Resources' points to the need to create an instrument to regulate standards at Union level for water reuse, in order to remove the obstacles to a

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widespread use of such an alternative water supply option, namely one that can help to reduce water scarcity and lessen the vulnerability of supply systems.

(4) The communication of the Commission of 18 July 2007‘Addressing the challenge of water scarcity and droughts in the European Union’ sets out the hierarchy of measures that Member States should consider in managing water scarcity and droughts. It states that in regions where all preventive measures have been implemented according to the water hierarchy and where demand for water still exceeds availability, additional water supply infrastructure can in some circumstances, and taking due account of the cost-benefit dimension, serve as an alternative approach to mitigate the impacts of severe drought.

(5) In its resolution of 9 October 2008 on addressing the challenge of water scarcity and droughts in the European Union[(6)], the European Parliament recalls that a demand-side approach should be preferred when managing water resources, but considers that the Union should adopt a holistic approach when managing water resources, combining measures of demand management, measures to optimise existing resources within the water cycle and measures to create new resources, and that the approach needs to integrate environmental, social and economic considerations.

(6) In its communication of 2 December 2015‘Closing the loop – An EU action plan for the Circular Economy’, the Commission committed to taking a series of actions to promote the reuse of treated waste water, including the development of a legislative proposal on minimum requirements for water reuse. The Commission should update its action plan and keep water resources as a priority area in which to intervene.

(7) The purpose of this Regulation is to facilitate the uptake of water reuse whenever it is appropriate and cost-efficient, thereby creating an enabling framework for those Member States who wish or need to practise water reuse. Water reuse is a promising option for many Member States, but currently only a small number of them practice water reuse and have adopted national legislation or standards in that regard. This Regulation should be flexible enough to allow the continuation of the practice of water reuse and at the same time to ensure that it is possible for other Member States to apply those rules when they decide to introduce this practice at a later stage. Any decision not to practise water reuse should be duly justified based on the criteria laid down in this Regulation and reviewed regularly.

(8) Directive 2000/60/EC provides Member States with the necessary flexibility to include supplementary measures in the programmes of measures that they adopt to support their efforts to achieve the water quality objectives established by that Directive. The non-exclusive list of supplementary measures provided for in Part B of Annex VI to Directive 2000/60/EC contains, among others, water reuse measures. In this context and in line with a hierarchy of measures that could be considered by the Member States in managing water scarcity and droughts and that encourages measures ranging 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, as established by this Regulation, should be applicable whenever treated urban waste water from urban

waste water treatment plants is reused, in accordance with Directive 91/271/EEC, for agricultural irrigation.

(9) Reuse of properly treated waste water, for example from urban waste water treatment plants, is considered to have a lower environmental impact than other alternative water supply methods, such as water transfers or desalination. However, such water reuse, which could reduce water wastage and save water, is practised only to a limited extent in the Union. This appears to be partly due to the significant cost of waste water reuse systems and the lack of common Union environmental and health standards for water reuse, and, as regards, in particular, agricultural products, due to the potential health and environmental risks and potential obstacles to the free movement of such products which have been irrigated with reclaimed water.

(10) Health standards in relation to food hygiene for agricultural products irrigated with reclaimed water can be achieved only if quality requirements for reclaimed water intended for agricultural irrigation do not differ significantly between the Member States. Harmonisation of requirements would also contribute to the efficient functioning of the internal market in relation to such products. It is therefore appropriate to introduce minimum levels of harmonisation by setting minimum requirements for water quality and monitoring. Those minimum requirements should consist of minimum parameters for reclaimed water that are based on the technical reports of the Commission's Joint Research Centre and reflect international standards on water reuse, and other stricter or additional quality requirements imposed, if necessary, by competent authorities together with any relevant preventive measures.

(11) Water reuse for agricultural irrigation can also contribute to the promotion of the circular economy by recovering nutrients from the reclaimed water and applying them to crops, by means of fertigation techniques. Thus, water reuse could potentially reduce the need for supplemental applications of mineral fertiliser. End-users should be informed about the nutrient content of reclaimed water.

(12) Water reuse could contribute to the recovery of the nutrients contained in treated urban waste water, and the use of reclaimed water for irrigation purposes in agriculture or forestry could be a way of restoring nutrients, such as nitrogen, phosphorus and potassium, to natural biogeochemical cycles.

(13) The high investment needed to upgrade urban waste water treatment plants and the lack of financial incentives for practising water reuse in agriculture have been identified as being among the reasons for the low uptake of water reuse in the Union. It should be possible to address those issues by promoting innovative schemes and economic incentives to appropriately take account of the costs and the socioeconomic and environmental benefits of water reuse.

(14) Compliance with minimum requirements for water reuse should be consistent with Union water policy and contribute to the achievement of the Sustainable Development Goals of the United Nations 2030 Agenda for Sustainable Development, in particular Goal 6, to ensure the availability and sustainable management of water and sanitation for all, as well as a substantial increase in recycling of water and safe water reuse globally with a view to contributing to achieving United Nations Sustainable

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Development Goal 12 on sustainable consumption and production. Furthermore, this Regulation should seek to ensure the application of Article 37 of the Charter of Fundamental Rights of the European Union on environmental protection.

(15) In some cases, reclamation facility operators still transport and store reclaimed water beyond the outlet of the reclamation facility, prior to delivering it to the next actors in the chain, such as the reclaimed water distribution operator, the reclaimed water storage operator or the end-user. It is necessary to define the point of compliance, to clarify where the responsibility of the reclamation facility operator ends and where the responsibility of the next actor in the chain starts.

(16) Risk management should comprise the identification and management of risks in a proactive way, and should incorporate the concept of producing reclaimed water of a specific quality required for particular uses. Risk assessment should be based on key elements of risk management and should identify any additional water quality requirements necessary to ensure sufficient protection of the environment and of human and animal health. For that purpose, water reuse risk management plans should ensure that reclaimed water is safely used and managed and that there are no risks to the environment or to human or animal health. In order to develop such risk management plans, existing international guidance or standards, such as ISO 20426:2018 Guidelines for health risk assessment and management for non-potable water reuse, ISO 16075:2015 Guidelines for treated waste water use for irrigation projects, or World Health Organisation (WHO) guidelines could be used.

(17) The quality requirements for water intended for human consumption are laid down in Council Directive 98/83/EC[7]. Member States should take appropriate measures to ensure that water reuse activities do not lead to a deterioration in the quality of water intended for human consumption. For that reason, the water reuse risk management plan should pay special attention to the protection of water bodies used for the abstraction of water intended for human consumption and relevant safeguard zones.

(18) Cooperation and interaction between the various parties involved in the water reclamation process should be a precondition for setting up reclamation treatment procedures in accordance with the requirements for specific uses, and in order to be able to plan the supply of reclaimed water in line with demand from end-users.

(19) In order to effectively protect the environment and human and animal health, reclamation facility operators should be primarily responsible for the quality of reclaimed water at the point of compliance. For the purposes of compliance with the minimum requirements laid down under this Regulation and with any additional conditions set by the competent authority, reclamation facility operators should monitor the quality of reclaimed water. It is therefore appropriate to establish the minimum requirements for monitoring, consisting of the frequencies of the routine monitoring and the timing and performance targets for validation monitoring. Certain requirements for routine monitoring are provided for in Directive 91/271/EEC.

(20) This Regulation should cover reclaimed water which is obtained from waste water that has been collected in collecting systems, that has been treated in urban waste water treatment plants in accordance with Directive 91/271/EEC and that undergoes

further treatment, either in the urban waste water treatment plant or in a reclamation facility, in order to meet the parameters set out in Annex I to this Regulation. In accordance with Directive 91/271/EEC, agglomerations of less than 2 000 population equivalent (p.e.) do not have to be provided with a collecting system. However, urban waste water from agglomerations of less than 2 000 p.e. that enters a collecting system should be subject to appropriate treatment before being discharged into fresh water or estuaries, in accordance with Directive 91/271/EEC. In that context, waste water from agglomerations of less than 2 000 p.e. should fall under the scope of this Regulation only when it enters a collecting system and is subject to treatment in an urban waste water treatment plant. Similarly, this Regulation should not concern biodegradable industrial waste water from plants belonging to the industrial sectors listed in Annex III to Directive 91/271/EEC, unless the waste water from those plants enters a collecting system and is subject to treatment in an urban waste water treatment plant.

(21) The reuse of treated urban waste water for agricultural irrigation is a market-driven action, based on the demands and needs of the agricultural sector, in particular in certain Member States that face water resource shortages. The reclamation facility operators and the end-users should cooperate to ensure that reclaimed water produced in accordance with the minimum quality requirements established by this Regulation meets the needs of the end-users regarding crop categories. In cases where the quality classes of the water produced by the reclamation facility operators are not compatible with the crop category and irrigation method already in place in the area served, for example in a collective supply system, water quality requirements could be met by using, at a subsequent stage, several water treatment options alone or in combination with non-treatment options for the reclaimed water, in line with the multi-barrier approach.

(22) In order to ensure optimal reuse of urban waste water resources, end-users should receive training to ensure that they use water of the appropriate reclaimed water quality class. Where the destination of a specific type of crop is unknown or where it has multiple destinations, reclaimed water of the highest quality class should be used, unless appropriate barriers are applied which enable the required quality to be achieved.

(23) It is necessary to ensure that the use of reclaimed water is safe, thereby encouraging water reuse at Union level and enhancing public confidence in it. Production and supply of reclaimed water for agricultural irrigation should therefore only be permitted on the basis of a permit, granted by competent authorities of Member States. In order to ensure a harmonised approach at Union level, traceability of reclaimed water and transparency, the substantive rules for such permits should be laid down at Union level. However, the details of the procedures for granting permits, such as the designation of the competent authorities and deadlines, should be determined by Member States. Member States should be able to apply existing procedures for granting permits, which should be adapted to take account of the requirements introduced by this Regulation. When designating the parties responsible for the drawing up of the water reuse risk management plan and the competent authority for the granting of the permit for production and supply of reclaimed water, Member States should ensure that there is no conflict of interests.