Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption

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on the quality of water intended for human consumption

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and, in particular, Article 130s(1) thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the Economic and Social Committee[(2)],

Having regard to the opinion of the Committee of the Regions[(3)],

Acting in accordance with the procedure laid down in Article 189c[(4)],

(1) Whereas it is necessary to adapt Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption[(5)] to scientific and technological progress; whereas experience gained from implementing that Directive shows that it is necessary to create an appropriately flexible and transparent legal framework for Member States to address failures to meet the standards; whereas, furthermore, that Directive should be re-examined in the light of the Treaty on European Union and in particular the principle of subsidiarity;

(2) Whereas in keeping with Article 3b of the Treaty, which provides that no Community action should go beyond what is necessary to achieve the objectives of the Treaty, it is necessary to revise Directive 80/778/EEC so as to focus on compliance with essential quality and health parameters, leaving Member States free to add other parameters if they see fit;

(3) Whereas, in accordance with the principle of subsidiarity, Community action must support and supplement action by the competent authorities in the Member States;

(4) Whereas, in accordance with the principle of subsidiarity, the natural and socio-economic differences between the regions of the Union require that most decisions on monitoring, analysis, and the measures to be taken to redress failures be taken at a local, regional or national level insofar as those differences do not detract from the establishment of the framework of laws, regulations and administrative provisions laid down in this Directive;

(5) Whereas Community standards for essential and preventive health-related quality parameters in water intended for human consumption are necessary if minimum environmental-quality goals to be achieved in connection with other Community

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measures are to be defined so that the sustainable use of water intended for human consumption may be safeguarded and promoted;

(6) Whereas, in view of the importance of the quality of water intended for human consumption for human health, it is necessary to lay down at Community level the essential quality standards with which water intended for that purpose must comply;

(7) Whereas it is necessary to include water used in the food industry unless it can be established that the use of such water does not affect the wholesomeness of the finished product;

(8) Whereas to enable water-supply undertakings to meet the quality standards for drinking water, appropriate water-protection measures should be applied to ensure that surface and groundwater is kept clean; whereas the same goal can be achieved by appropriate water-treatment measures to be applied before supply;

(9) Whereas the coherence of European water policy presupposes that a suitable water framework Directive will be adopted in due course;

(10) Whereas it is necessary to exclude from the scope of this Directive natural mineral waters and waters which are medicinal products, since special rules for those types of water have been established;

(11) Whereas measures are required for all parameters directly relevant to health and for other parameters if a deterioration in quality has occurred; whereas, furthermore, such measures should be carefully coordinated with the implementation of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market[(6)] and Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market[(7)];

(12) Whereas it is necessary to set individual parametric values for substances which are important throughout the Community at a level strict enough to ensure that this Directive's purpose can be achieved;

(13) Whereas the parametric values are based on the scientific knowledge available and the precautionary principle has also been taken into account; whereas those values have been selected to ensure that water intended for human consumption can be consumed safely on a life-long basis, and thus represent a high level of health protection;

(14) Whereas a balance should be struck to prevent both microbiological and chemical risks; whereas, to that end, and in the 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 assessing risk;

(15) Whereas there is at present insufficient evidence on which to base parametric values for endocrine-disrupting chemicals at Community level, yet there is increasing concern regarding the potential impact on humans and wildlife of the effects of substances harmful to health;

(16) Whereas in particular the standards in Annex I are generally based on the World Health Organisation's ‘Guidelines for drinking water quality’, and the opinion of the

Commission's Scientific Advisory Committee to examine the toxicity and ecotoxicity of chemical compounds;

(17) Whereas Member States must set values for other additional parameters not included in Annex I where that is necessary to protect human health within their territories;

(18) Whereas Member States may set values for other additional parameters not included in Annex I where that is deemed necessary for the purpose of ensuring the quality of the production, distribution and inspection of water intended for human consumption;

(19) Whereas, when Member States deem it necessary to adopt standards more stringent than those set out in Annex I, Parts A and B, or standards for additional parameters not included in Annex I but necessary to protect human health, they must notify the Commission of those standards;

(20) Whereas Member States are bound, when introducing or maintaining more stringent protection measures, to respect the principles and rules of the Treaty, as they are interpreted by the Court of Justice;

(21) Whereas the parametric values are to be complied with at the point where water intended for human consumption is made available to the appropriate user;

(22) Whereas the quality of water intended for human consumption can be influenced by the domestic distribution system; whereas, furthermore, it is recognised that neither the domestic distribution system nor its maintenance may be the responsibility of the Member States;

(23) Whereas each Member State should establish monitoring programmes to check that water intended for human consumption meets the requirements of this Directive; whereas such monitoring programmes should be appropriate to local needs and should meet the minimum monitoring requirements laid down in this Directive;

(24) Whereas the methods used to analyse the quality of water intended for human consumption should be such as to ensure that the results obtained are reliable and comparable;

(25) Whereas, in the event of non-compliance with the standards imposed by this Directive the Member State concerned should investigate the cause and ensure that the necessary remedial action is taken as soon as possible to restore the quality of the water;

(26) Whereas it is important to prevent contaminated water causing a potential danger to human health; whereas the supply of such water should be prohibited or its use restricted;

(27) Whereas, in the event of non-compliance with a parameter that has an indicator function, the Member State concerned must consider whether that non-compliance poses any risk to human health; whereas it should take remedial action to restore the quality of the water where that is necessary to protect human health;

(28) Whereas, should such remedial action be necessary to restore the quality of water intended for human consumption, in accordance with Article 130r(2) of the Treaty, priority should be given to action which rectifies the problem at source;

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(29) Whereas Member States should be authorised, under certain conditions, to grant derogations from this Directive; whereas, furthermore, it is necessary to establish a proper framework for such derogations, provided that they must not constitute a potential danger to human health and provided that the supply of water intended for human consumption in the area concerned cannot otherwise be maintained by any other reasonable means;

(30) Whereas, since the preparation or distribution of water intended for human consumption may involve the use of certain substances or materials, rules are required to govern the use thereof in order to avoid possible harmful effects on human health;

(31) Whereas scientific and technical progress may necessitate rapid adaptation of the technical requirements laid down in Annexes II and III; whereas, furthermore, in order to facilitate application of the measures required for that purpose, provision should be made for a procedure under which the Commission can adopt such adaptations with the assistance of a committee composed of representatives of the Member States;

(32) Whereas consumers should be adequately and appropriately informed of the quality of water intended for human consumption, of any derogations granted by the Member States and of any remedial action taken by the competent authorities; whereas, furthermore, consideration should be given both to the technical and statistical needs of the Commission, and to the rights of the individual to obtain adequate information concerning the quality of water intended for human consumption;

(33) Whereas, in exceptional circumstances and for geographically defined areas, it may be necessary to allow Member States a more extensive timescale for compliance with certain provisions of this Directive;

(34) Whereas this Directive should not affect the obligations of the Member States as to the time limit for transposition into national law, or as to application, as shown in Annex IV,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Objective

1 This Directive concerns the quality of water intended for human consumption.

2 The objective of this Directive shall be 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.

Article 2

Definitions

For the purposes of this Directive:

1. ‘water intended for human consumption’ shall mean:

(a) all water either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from a distribution network, from a tanker, or in bottles or containers;

(b) all water used in any food-production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless the competent national authorities are satisfied that the quality of the water cannot affect the wholesomeness of the foodstuff in its finished form;

2. 'domestic distribution system' shall mean the pipework, fittings and appliances which are installed between the taps that are normally used for human consumption and the distribution network but only if they are not the responsibility of the water supplier, in its capacity as a water supplier, according to the relevant national law.

Article 3

Exemptions

1 This Directive shall not apply to:

a natural mineral waters recognised as such by the competent national authorities, in accordance with Council Directive 80/777/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters[8];

b waters which are medicinal products within the meaning of Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products[9].

2 Member States may exempt from the provisions of this Directive:

a water intended exclusively for those purposes for which the competent authorities are satisfied that the quality of the water has no influence, either directly or indirectly, on the health of the consumers concerned;

b water intended for human consumption from an individual supply providing less than 10 mZ3 a day as an average or serving fewer than 50 persons, unless the water is supplied as part of a commercial or public activity.

3 Member States that have recourse to the exemptions provided for in paragraph 2(b) shall ensure that the population concerned is informed thereof and of any action that can be taken to protect human health from the adverse effects resulting from any contamination of water intended for human consumption. In addition, when a potential danger to human health arising out of the quality of such water is apparent, the population concerned shall promptly be given appropriate advice.

Article 4

General obligations

1 Without prejudice to their obligations under other Community provisions, Member States shall take the measures necessary to ensure that water intended for human consumption is wholesome and clean. For the purposes of the minimum requirements of this Directive, water intended for human consumption shall be wholesome and clean if it: