

Minutes of the Informal Expert Group on the Implementation of Directive 98/83/EC (Drinking Water Directive)

Brussels, 27.03.2017

Minutes

Meeting of the European Commission Informal Expert Group on the Implementation of Directive 98/83/EC (Drinking Water Directive)¹

Monday, 27 March 2017, 10:00 –16:30H at DG Environment, Beaulieu BU-5

Meeting Room C

Av. de Beaulieu/Beaulieulaan 5, 1160 Brussels

1. Approval of the agenda and of the minutes of previous meeting

The Chairperson welcomed the participants and announced a few changes in the Agenda that was circulated beforehand. Germany has suggested discussing under item 3 not only the reporting period 2014-16, but also reporting from 2017 onwards. Under item 7: ERNCIP/Critical Infrastructure, a presentation will be given by JRC via videoconference. Due to new developments, item 9 regarding materials was accorded more time in the agenda and will include a presentation from DG GROW on the planned new Mandate. Item 11 on the WHO Parameter review will be dealt with earlier, and item 9 on materials after item 11. On items 12 and 13 no contributions were received from Member States. Additionally, Belgium suggested an AOB point on Drinking Water Protection. No further proposals for modification of the agenda were suggested by the participants and the agenda was adopted unanimously (see annex 1).

All documents and presentations of the meeting are available in the CIRCABC folder².

The Chairperson announced that Germany made some comments on the minutes from 22 September 2016 which were consequently included. The new version of the minutes is available online on CIRCABC. All participants agreed to accept the draft without changes.

¹ Published in the Register of Commission Expert Groups and Other Similar Entities, code number [...]

² <https://circabc.europa.eu/w/browse/6807f813-ee54-4d0d-82ac-c8cab7ca2f68>

2. Nature of the meeting

The meeting was open to members and observers of the expert group. The list of participants is attached as Annex I.

3. List of points discussed:

3.1. Reporting (results of reporting exercise 2011-2013, upcoming exercise 2014-2016)

The Commission services referred to the last meeting where the main results summarised for a draft Synthesis report from the reporting exercise 2011 – 2013 were presented. The Commission report for the period 2011 - 2013 has been adopted in October and is now available online as the synthesis report (COM(2016)666)³. Also, the country reports as well as a combined report by the EEA on bathing and waste water are now to be found online.

As announced in the last meeting, the EEA will not continue its work on drinking water. It is yet unclear how the work on the database will continue in the future, but even though there is a lack of clarity on this so far, the MS are responsible for collecting and sending the data for the period of 2014 – 2016 for which the deadline of submission is February 2018. The Commission services stressed that it is unfortunate that the business as usual cannot continue. For the reporting period of 2017 – 2019 the situation under the potentially new directive needs to be considered and regarding reporting requirements internal discussions at the Commission are taking place.

In this context Germany stressed that the COM has to keep in mind that currently the implementation of the new annexes is taking place. Some water supplies may have a risk assessment in place, whereas others not. Deviations from monitoring due to a risk assessment need to be considered also in the reporting. Germany remarked that MS can only report when the requirements are known before the period. If there are changes in format or requirements, MS are unable to send data required after. Additionally, the topic of radioactivity was mentioned, still included in the current formats, and whether it needs to be included in the reporting. On this topic the Commission services clarified that the Euratom DWD supersedes the DWD, and that MS are not required to report radioactivity data under the DWD reporting.

3.2. Commission Directive (EU) 2015/1787 amending Annexes II and III: Tour de table: State of transposition in the MS, implementation risk-based approach

The Commission services presented an update on questions received from the MS regarding the transposition of the amending annexes II and III. Question number 2 by the Czech Republic raised concern as it is unclear to the MS whether table 1 supersedes the related note. The interpretation of the draft reply to this question will be re-considered. The presentation will be made available on CIRCABC after re-consideration. In case of further questions,

³ <http://ec.europa.eu/environment/water/water-drink/pdf/reports/EN.pdf>

participants and others are invited to email directly to: ENV-DRINKING-WATER@ec.europa.eu.

3.3 Short update by the Commission on conformity checks of transposition and infringement Procedures

The Commission services reminded the participants that the transposition period for the amended annexes ends in October of this year. If a MS has not duly transposed the amended Annexes, either of two legal cases can take place, depending on the situation: (1) non-communication to the Commission or (2) incorrect transposition. In the first case, no pilot will be launched and the Commission services will directly start an infringement case by sending a letter of formal notice, as communication of transposition is considered to be a priority. Depending on the reaction by the MS, the COM will go to the Court of Justice asking for a financial penalty in the form of a lump sum and a penalty payment. In the second case (incorrect transposition), it might be that whilst evaluating the transposition of the MS, the COM finds that the transposition was not done correctly. Consequently, the seriousness of the situation will be evaluated. Depending on the case, a pilot will be started, and, if the issue is not solved through the pilot, a letter of formal notice will be sent.

In this context some MS were wondering whether the incorrect transposition of the unclear note related to the monitoring Table (see point 3.2 of the minutes) can lead to a case of infringement which was denied by the Commission services. Additionally, it was questioned whether there would be less communication due to the skipping of the pilot in the first case, which was also denied as MS are invited to respond to the letter of formal notice.

3.4 Transposition of the new annexes to the Directive – Tour de table

The participants were invited to present the status quo in their respective countries regarding the transposition of the amended Annexes. Most MS have prepared the technical version of the document and are about to start public stakeholder consultations. Most MS are confident to have transposed the amended Annexes in time and that they will have them entered into force by October of this year. Bulgaria will provide further information via email as the responsible representative for transposing the amended annexes was not present.

In conclusion to the tour de table, the Commission services inquired whether any of the present MS is not implementing the voluntary RBA. All present MS confirmed that they were about to introduce it. Some stated that it is already been established quite some time in their respective countries. In some countries/regions RBA will become mandatory: Finland, the UK, Norway, Belgium/Flanders, Sweden, Greece, Slovenia, Croatia, Luxembourg, and Poland.

At this point the Commission services also announced that the detached national expert Christof Mainz, who had been working on the topic in the last six years, will be leaving the Commission services by the end of the month and return to Germany. After thanking him for his good work, the Commission services invited the MS experts to send in applications from national experts for this post.

3.5. Small Water Supplies (SWS)

The Commission services stressed that from a legal point of view there is high pressure that MS ensure full monitoring and compliance in small water supplies to avoid the emergence of health problems. As the voluntary reporting for the last period was incomplete, a questionnaire had been sent to the expert group. Answers by 24 MS showed that, contrary to previous findings, small water suppliers seem to achieve a microbiological compliance rate of 98 %. This high compliance rate helped to avoid the opening of a horizontal case. The replies to the questionnaire further provided insights into common problems for small water suppliers which are amongst others a lack of expertise in management, lack of funding and lack of resource efficiency. Regarding problematic parameters, especially iron, nitrate and manganese were reported. Various suggestions, based on input from the MS, on how to deal with this topic were presented by the Commission services, whilst also stressing that the COM at this point does not have the capacities to closely follow up on this topic.

In the following discussion some MS pointed out various problems in the context of "small" water supplies: (1) what is the actual meaning and definition of "public" supply (also regarding ownership), (2) what does "small" mean and entail, (3) are there specific uses that should be considered: i.e. showering with versus consuming the drinking water, (4) should small water supplies follow stricter or weaker requirements (comparison drawn to food industry in which all businesses are treated equally). One MS suggested including the topic of sharing best practices in the next meeting of the group. The work under the Protocol on Water and Health on small supplies was also mentioned for consideration. The regional office of the WHO for Europe as well as EurEau stressed their willingness to support the Commission and the MS on this topic, raising at the same time also the issue of the need for investments, the development of tools to help small businesses, the possibility of establishing an exchange platform and a generally more enabling environment. The Commission services stressed again the need for support on this topic, asking for MS with well-established national tools or definitions to comment on this until the end of April. Sweden stated that it would be willing to contribute to the task force.

3.6. Security - Directive on security of network and information systems (NIS Directive (EU) 2016/1148)

On invitation from DG ENV, DG CNECT presented the Directive on security of network and information systems and highlighted the links between this directive and drinking water. With drinking water being identified as an essential service and water suppliers as operators of essential services to the MS population, MS need to identify essential drinking water services with regard to security.

DG ENV consequently opened the floor to discuss with the MS the current status of identifying essential services provided in their countries and how these were defined. In the following discussion, some MS pointed out that in their countries different authorities are responsible for these topics and cooperation among them is now taking place. Moreover, one MS raised the topic of water supplies which are not linked to the internet and whether these

'closed' systems would be considered as protected against cyberattacks. France mentioned that their criterion for essential services is 100,000 subscribers.

Those interested in the topic may contact DG CONECT directly via Leonardo.DE-VIZIO@ec.europa.eu.

3.7. European Reference Network for Critical Infrastructure Protection (ERNICIP)

In a videoconference Peter Gattinesi (JRC) informed the participants about the ERNICIP Thematic Group on water, which is a group of experts working voluntarily on ideas for the protection of drinking water from contamination and the development of water security plans. The importance of protecting the infrastructure for drinking water was stressed. The ERNICIP group recommended to the COM that currently no further legislation on this topic should be developed, but to rather focus on the development of guidance for preparing water security plans.

In the following discussion, Aqua Publica Europea wondered in how far the ERNICIP work differs from the WHO's work on safety and hazards. Also, some MS stressed that a replication of work that might already be done on national or even global level should be avoided. The JRC highlighted that research so far has shown that on EU level no common action on water security is taking place. Moreover, any work put forward by the ERNICIP group builds on national best practice activities from EU MS. The WHO pointed out that a theoretical discussion regarding water safety and water security, and in how far they should be addressed together, is currently ongoing.

Feedback and also cooperation on this topic are highly welcome: peter.gattinesi@ec.europa.eu. The guidance document on water security plans is available on CIRCABC⁴.

3.8. Update by the Commission on the evaluation and revision of the Drinking Water Directive, Update on the impact assessment study

The Commission services presented the ongoing work on revising the DWD. The newest published documents such as the Inception Impact Assessment Roadmap and the Impact Assessment Study can now be found on CIRCABC. It was highlighted that although economic and environmental benefits of a revision of the directive can be calculated, the health benefits are much more difficult to quantify. Based on the evaluation and the impact assessment study of the directive, DG ENV will now prepare a proposal for the revision of the directive. The participants of the meeting are invited to send their feedback on the topic.

The observer EurEau raised the question of what "smart" information in the impact assessment study entails and in how far it is related to health. Additionally, EurEau

⁴ [Proposal for guidance related to a Water Security Plan to protect Drinking Water](#) (Hohenblum, Pitchers, Raich, Tanchou, v.d. Gaag, Weingartner, 2017, JRC105388)

emphasised its willingness to support the COM in developing the meaning of information in this context. One MS stressed the need for having the DWD although statistically the impact on health cannot be proven. The relation between the DWD and environmental impacts was also highlighted by another MS as well as the need for providing the consumer with cross-border information. The Commission services pointed out that information provision indeed can have an impact on health as informed consumers are in a better position of pressuring their water suppliers to provide wholesome water.

3.9. WHO project on parameters

Oliver Schmoll from the WHO regional office for Europe and John Fawell presented their findings regarding chemical parameters, one topic covered by a project which is conducted by the WHO for the Commission until mid of the year, as part of the preparatory work for the potential revision of the parameters in the DWD. It was highlighted that this was the third time that the preliminary findings of that work are presented and that feedback is welcome. Amongst others the findings had previously been presented to EurEau. It was mentioned that in the project the topic of mixtures of substances in drinking water will be further discussed. Nevertheless, the new risk-based approach, introduced on a voluntary basis in Annex II already provides the flexibility to better deal with the various parameters found in drinking water. In the presentation, a new way of grouping parameters, their source and ways of removal were presented as well as an overview that explained deviations in thresholds on parameters between the EU and the WHO.

In the following discussion, the MS raised various topics: (1) one MS pointed out that special circumstances in a country might make it very difficult to achieve certain parameters. (2) Another MS questioned on which basis the parameters were chosen to be in the list. According to the WHO it is based on the occurrence of these chemicals in waters, their health effects, and therefore the arising need to address them. Moreover, the WHO list of parameters is based on various sources that were presented by WHO in the beginning of the project. (3) Generally it was acknowledged by the MS that the grouping of chemicals would be very helpful in the future for monitoring. (4) Moreover, one MS stressed that the list should not be shortened and a precautionary approach is welcome. (5) EurEau raised the issue of a lack of parametric value for EDCs. The WHO suggests instead of standards an investigative "marker" approach, which has already been discussed previously with EurEau members. (6) One MS also urged for more clarity regarding an overlap of monitoring requirements between the WFD and the DWD.

3.10. Update on the study on materials/products in contact with drinking water, standardization

The formal Evaluation of the DWD has objectively recognised that there are potential obstacles to the internal market due to a lack of standardization and a lack of mutual recognition of materials in contact with drinking water. DG ENV has finalised a further study providing more insight in the issue. In addition a user guide for consumers and plumbers was developed, which can be found online.

DG GROW presented the preparations for a new mandate to develop standardization for products and materials in contact with drinking water. He explained that performance standards are developed at EU level, but that usually it is in the end up to the MS to take a decision and to set the values determining when materials are safe. A Draft Commission Implementing Decision with an Annex containing the three draft mandates for cementitious products, metals and organic materials on this topic has been made available for consultation. MS as well as the industry are urged to provide feedback on the topic. Without feedback this topic might be abandoned in the future.

One MS asked for the adoption of clear acceptance criteria in standards, which DG GROW argued to be difficult at the moment. On a question on shower heads DG GROW remarked that it will currently only look at construction products. It was pointed out that voluntary standards provided by CEN are found insufficient. DG ENV argued that the scope of the DWD does not allow to regulate products, but that it would be good to find an EU solution in the revision process of the DWD so that harmonised standards and harmonised acceptance criteria can be applied. DG ENV supports DG GROW with the standardisation mandate and to further explore other options to erase obstacles to the internal market.

3.11. Additional Parameters

MS were invited to provide and exchange information on the identification new/additional parameters not included in Annex I. The Commission services did not receive much information on this topic. One MS stressed its interest in the progress on the parameter for Chromium VI.

3.12. Drinking Water incidents, restrictions, interruptions: MS are invited to provide information on incidents that occurred in their countries, and on lessons learned to avoid recurrence

As MS did not provide much information on this topic, this point was not addressed.

3.13. AOB: Better integration of Drinking Water Resources Protection Considerations into River Basin Management

Belgium/Flanders (Kris van der Belt) gave a presentation that was also given to the Working Group on Groundwater, which stressed the links between the WFD and the DWD. He invited the participants to join the project if they have good examples on this topic. One MS reflected that the participants in the drinking water expert group often do not work on the topic of

groundwater. It was agreed that more events should take place at which groundwater and drinking water experts could interact. Another MS reiterated to the need of avoiding too much overlap between WFD and DWD requirements e.g. regarding monitoring.

The presentation can be found on CIRCABC and further remarks or questions on the topic send to: k.vandenbelt@vmm.be.

4. Conclusion

- Member States should ensure correct transposition of Annexes II and III DWD, and communication of their transposing provisions through appropriate channels, by 27 October 2017

- Any comments on the links between the DWD and the Directive on security of network and information systems (NIS Directive (EU) 2016/1148) should be sent to Leonardo de Vizio.

- Any comments or feedback on ERNCIP and the development of water security plans should be sent to peter.gattinesi@ec.europa.eu

- Comments on the Inception Impact Assessment Roadmap and the Impact Assessment Study can be sent to Tobias Biermann by end of April 2017.

- The expert group members and observers are invited to take part in the consultation on the Draft Commission Implementing Decision with an Annex containing the three draft mandates for cementitious products, metals and organic materials. The study is available on CIRCABC and feedback is welcomed until April 2017.

- Comments or questions on the presentation "Better integration of Drinking Water Resources Protection Considerations into River Basin Management" should be sent to k.vandenbelt@vmm.be.

5. Next steps

An EMEG meeting is planned for the end of April (26/27 of April) and the participants will have access to the minutes taken at this meeting. Furthermore, there will be a meeting of ENDWARE on 15-16 May for which the deadline of registration is closing soon.

It was clarified that comments on the WHO parameter project should be sent within two weeks, and on all other topics presented comments are welcome until the end of April. The Commission services thanked the participants for attending and for commenting on the topics.

6. Next meeting

Next meeting is scheduled for early 2018.

Annex 1

7. List of participants

All Member States (MS) participated except Cyprus, Czech Republic, Italy, Lithuania, Spain. Some stakeholders also participated as observers. The list of participants is annexed.

The Expert Group (EG) was chaired by Els De Roeck (DG ENV). The European Commission (COM) was represented by DG Environment (DG ENV): (Chairperson), Tobias Biermann (TB), Christof Mainz (ChM), Clementine Leroy (CL), Maja Feder (MF), Nele-Frederike Rosenstock (NR).

Organisation / Ministry

Member States

AT	Austria	Austrian Ministry for Health and Women's affairs
BE	Belgium	Flemish Environment Agency/Vlaamse Milieumaatschappij Public Service of Wallonia Bruxelles Environnement - IBGE
BG	Bulgaria	Ministry of Health
HR	Croatia	Ministry of Health Croatian Waters
CY	Cyprus	/
CZ	Czech Republic	The National Institute of Public Health
DK	Denmark	Ministry of Environment and Food
EE	Estonia	Ministry of the Environment Estonian Health Board
FI	Finland	Ministry of Social Affairs and Health

FR	France	Ministry of Social Affairs, Health Ministry of Social Affairs, Health
DE	Germany	Federal Ministry of Health Federal Ministry of Health UBA - German Environment Agency HLPUG Hessisches Landesprüfungs-und Untersuchungsamt im Gesundheitswesen
EL	Greece	Ministry of health
HU	Hungary	Ministry of Interior National Institute of Environmental Health
IE	Ireland	Environmental Protection Agency
IT	Italy	National Institute of Health (ISS)
LV	Latvia	Ministry of Agriculture
LT	Lithuania	/
LUX	Luxemburg	Ministère du Développement durable et des Infrastructures , Administration de la gestion de l'eau
MT	Malta	Ministry for Health Office of the Prime Minister (Energy and Projects)
NL	The Netherlands	Ministry of Infrastructure & Environment Ministry of Health, welfare and sport Ministry of Infrastructure and Environment
PL	Poland	Chief Sanitary Inspectorate
PT	Portugal	ERSAR - Water and Waste Services Regulation Authority
RO	Romania	Ministry of Health

Ministry of environment, Waters and Forests

SK	Slovak Republic	Ministry of Health
SI	Slovenia	Ministry of Health of Republic of Slovenia
ES	Spain	Ministry of Health
SE	Sweden	National Food Agency
UK	United Kingdom	Department for Environment, Food and Rural Affairs (DEFRA) Department for Environment, Food and Rural Affairs (DEFRA)

Non-Member States

NO	Norway	Norwegian Food Safety Authority
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Stakeholders

STH	Aqua Publica Europea
STH	CEEP - Centre of employers and enterprises providing public services
STH	ECPA-European Crop Protection Association
STH	EPSU – European Federation of Public Service Unions
STH	EUREAU - European Federation of National Associations of Water Services
STH	European Copper Institute
STH	Food & Water Europe
STH	World Health Organisation

EU Commission / European Environment Agency - European Topic Centre / Consultants

EEA	European Environment Agency
ETC/ICM	European Topic Centre
ENV.C.2	European Commission, DG Environment, Unit C.2 "Marine Environment and Water Industry"

RTD. I.2 European Commission, DG Research and Innovation

JRC European Commission, DG Joint Research Centre

Not represented: Cyprus, Czech Republic, Italy, Lithuania, Spain