

NL Position Paper public consultation on the Drinking Water Directive

In its Communication on the European Citizens' Initiative "Right2Water", COM(2014)177 final, the Commission announced its intention to launch an EU-wide public consultation on the Drinking Water Directive, notably in view of improving access to drinking water of good quality in the EU. This paper gives the position of the Netherlands (NL) on selected items related to the European Citizens' Initiative Right2Water and the questionnaire of the European Commission.

1. Access and affordability of drinking water

Access to safe drinking water is a human right. NL supports the specific inclusion of safe drinking water into the Charter of Fundamental Rights of the European Union and stresses the importance of the ratification of the Protocol on Water and Health (London, 1999) by the European Union. Access to drinking water is a human right, but should not be free of charge. Cost-covering tariffs are required to maintain a sustainable drinking water supply from source to tap. It's the responsibility of Member States to organize the access and financing of drinking water services, based on the subsidiarity principle. NL believes that it is unnecessary to standardize or compare the access and/or affordability to drinking water in the Drinking Water Directive - which is directed toward quality aspects - or develop any other new EU regulation/protocol. This would lead to an increased administrative burden and implementation problems, due to institutional and economic differences between Member States. However, we would welcome endeavors of the European Commission to facilitate the exchange of practices among member states, which may lead to a background document summarizing experiences.

2. Integration of drinking water protection considerations into EU regulations

NL proactively supports the efforts of the European Commission to align the requirements of the Drinking Water Directive (DWD) with the effectuation of the Water Framework Directive (WFD) and Groundwater Directive (GWD). Issues that require better coordination and alignment between the DWD, WFD and GWD include: Standards for substances, monitoring, risk assessment and safety planning methodologies, safeguard zones for both groundwater and surface water, and measures to improve water quality around drinking water abstractions. Smart regulation that provides a better integration of drinking water protection considerations into WFD and GWD will not only minimize administrative cost, but also ensure that WFD requirements to improve drinking water sources are met more effectively. However, alignment of EU regulations with drinking water protection considerations is not limited to the WFD and GWD.

For instance, horizontal chemicals legislation (REACH) and the Classification, Labeling and Packaging, Regulations, as well as legislation on biocidal products and plant protection products, provide baseline protection for human health and the environment. NL is in favor of strengthening the regulations in regard to the protection of drinking water sources.

Regulation no 1107/2009 (market introduction of plant protection products) provides registration criteria that must be met for low risk active substances. The European Commission is currently working on the interpretation and clarification of these criteria. A point of concern however is that regulation 1107/2009 does not mention risks for surface water and drinking water in the specific exclusion criteria for low risk active substances. NL would like to emphasize that the clarified criteria should include the risks for surface water and drinking water.

Furthermore, there is still uncertainty about the full impacts on human health and the environment of the combined effects of different chemicals (mixtures), nanomaterials, chemicals that interfere with the endocrine (hormone) system (endocrine disruptors) and chemicals in products. NL urges the European Commission to make more progress on these issues, which are included in the 7th Environmental Action Program of the European Commission.

3. EU wide harmonization of assessment of materials and products in contact with drinking water

Products/materials in contact with Drinking Water can leach substances to drinking water. Continuous exposure can lead to health risks. Materials in contact with drinking water can promote the growth of pathogenic micro-organisms leading to human health risks. Drinking water is used by every consumer on a daily basis for their entire lifetime. Consumers cannot choose between suppliers. Furthermore, products in contact with drinking water are mostly in a distribution system for many decades. Article 10 of the Drinking Water Directive requires that Member States take all measures to prevent that the quality of drinking water is negatively affected by materials in contact with drinking water. There is no horizontal European harmonization of requirements for the approval of products in contact with drinking water. The national legislation applicable for users is not suitable to regulate market entrance of products. As a result, products on the market are not tested for hygiene, therefore leading to possible human risks and/or deterioration of the drinking water quality. Market oriented legislation and harmonization at EU level of health-related criteria for products in drinking water seems to be necessary, given the protection of human health, the European market and also the pursuit for an equal economic level playing field. Materials/products that do not comply with health related criteria must be effectively excluded from the market. This is the only way that supply of safe consumer products can be guaranteed. The NL urges the EC to perform an impact assessment with regard to this issue. The protection level should be as high as the Drinking Water Directive pursues, if health related criteria are indeed harmonized. Furthermore with regard to re-use, in the context of the Circular Economy, the quality of re-use materials should be fit for the use in contact with drinking water. This complies with the goal of the 7th EAP to safeguard the Union's citizens from risks to health and well-being.

4. Revision of Drinking Water Directive

The Drinking Water Directive is dated. Since 1998 progress has been made with regard to quality standards. Where appropriate, the quality standards in the Drinking Water Directive should be revised and aligned with the latest edition of the WHO guidelines on drinking water quality (4th edition).

Drinking water quality cannot only be guaranteed by standardization and control of individual substances and micro-organisms. Risk analysis and risk management (RA/RM) is a necessary addition, in the form of preventive policies, good manufacturing practice of the whole chain from source to tap. NL would welcome the introduction of the risk based approach in the DWD, but only when there is a sound legal basis for this approach created in the DWD articles and where it is an integrated part of a RA/RM approach covering source to tap. The current DWD does not provide a clear basis for a risk based approach. When the current proposal of the EC for amending annex II is put forward, the more important aspects will be regulated in the Annex instead of the Directive itself. To our opinion a clear legal basis for risk based approach should be given in the Drinking Water Directive.

Another argument to implement the risk based approach in the body of the DWD is the public initiative Right2Water. This initiative gives a clear signal that the public is strongly involved with the access of drinking water of good quality and the need for transparency.

Furthermore, the specifications in the body of the DWD have become outdated and require up-dating in the light of scientific and technical progress as well as coherence with other EU legislation, for example the food legislation.

As far as the water supply to the food industry is concerned (either water from own sources or water from drinking water companies), the provisions in the European hygiene regulations (Reg 852/2005 and 853/2005) should prevail. The hygiene regulations states that food companies should use water of drinking water quality, unless the use of water of less quality for certain purposes is considered to be adequate, subject to a risk assessment (HACCP) by the company itself and approved by the competent authorities. The setting of quality standards and its monitoring (including setting of the parameters checked and the frequency of testing) is part of the HACCP based quality assurance within the food company. This being so, there is no need for specific requirements for water quality and monitoring requirements in the food industry and these provisions now occurring in the DWD should be omitted.