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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Directive (EU) 2020/2184 of the European Parliament and of the Council on the quality of water intended for human consumption (recast)

1. INTRODUCTION

Directive (EU) 2020/2184 of the European Parliament and of the Council on the quality of water intended for human consumption (hereinafter 'the recast Drinking Water Directive') was adopted in December 2020 and entered into force on 12 January 2021. The Member States had to transpose it by 12 January 2023.

The main objectives of the recast Drinking Water Directive are to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring it is wholesome and clean, and to maintain and improve access to water.

Article 21(2) of the recast Drinking Water Directive confers on the Commission the power to adopt delegated acts for a period of five years from **12 January 2021**. The delegated acts are referred to in Articles 4(3), 11(5), 11(8), 11(11), 13(6) and 20(2) of the Directive.

These delegated acts cover several key technical areas to achieve the objectives of the Directive.

- **Article 4(3):** by 12 January 2028, the Commission is required to adopt a delegated act to set out an EU-wide threshold for water leakage levels in water supply, based on the ILI (infrastructural leakage index) or another appropriate method. Member States with water leakage levels on their national territory exceeding that threshold have to present an action plan to the Commission laying down a set of measures to reduce the leakages. The delegated act should be drafted using the Member States' assessments and the EU average leakage rate determined on the basis of those assessments.
- In the context of the implementation of **Article 11 on minimum hygiene requirements for materials that come into contact with water intended for human consumption**, the Commission is required to:
    - **Article 11(5):** establish a procedure, including information requirements, on the application process for the purpose of including starting substances, compositions and constituents in or removing them from the European positive lists;
    - **Article 11(8):** determine the appropriate conformity assessment procedure applicable to products covered by Article 11 on the basis of the modules in Annex II to Decision No 768/2008/EC of the European Parliament and of the Council;
    - **Article 11(11):** establish harmonised specifications for a conspicuous, clearly legible and indelible marking to be used to indicate that products in contact with water intended for human consumption are in conformity with the EU's minimum hygiene requirements for materials that come into contact with water.
- **Article 13(6):** the Commission is required to adopt a methodology to measure microplastics in water intended for human consumption.
- **Article 20(2):** the Commission is empowered to:
    - amend Annex III to the Directive, where necessary, to adapt it to scientific and technical progress;
    - amend the parametric value of Bisphenol A in Part B of Annex I to the Directive, to the extent necessary to adapt it to scientific and technical progress.

2. LEGAL BASIS

Pursuant to Article 21(2), the Commission is required to draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period (i.e. 12 January 2026).

In accordance with Article 21(2) of the Directive, the delegation of power would be tacitly extended for another five-year period from 12 January 2026, unless the European Parliament or the Council opposed the extension no later than three months before that date.

3. EXERCISE OF DELEGATED POWERS DURING THE REPORTING PERIOD

During the reporting period, the Commission has exercised its delegated powers as follows to ensure the effective implementation of the Directive.

- **In accordance with Articles 11(5), 11(8) and 11(11)** on minimum hygiene requirements for materials that come into contact with water intended for human consumption, on 23 January 2024 the Commission adopted:
    - Commission Delegated Regulation (EU) 2024/369 supplementing Directive (EU) 2020/2184 of the European Parliament and of the Council by laying down the procedure regarding inclusion in or removal from the European positive lists of starting substances, compositions and constituents;
    - Commission Delegated Regulation (EU) 2024/370 supplementing Directive (EU) 2020/2184 of the European Parliament and of the Council by laying down conformity assessment procedures for products that come into contact with water intended for human consumption and the rules for the designation of conformity assessment bodies involved in those procedures;
    - Commission Delegated Regulation (EU) 2024/371 supplementing Directive (EU) 2020/2184 of the European Parliament and of the Council by establishing harmonised specifications for the marking of products that come into contact with water intended for human consumption.
- **In accordance with Article 13(6)**, on 11 March 2024 the Commission adopted:
    - Commission Delegated Decision (EU) 2024/1441 supplementing Directive (EU) 2020/2184 of the European Parliament and of the Council by laying down a methodology to measure microplastics in water intended for human consumption (notified under document C(2024)1459).

4. CONSULTATIONS BEFORE ADOPTION

For each delegated act adopted, the Commission conducted extensive consultations with experts designated by Member States through the **Expert Group on the implementation of the Drinking Water Directive**[1] **and the two subgroups established under this Expert Group**.

Before the draft acts were adopted, they were notified to the World Trade Organization (WTO) and published for public feedback for a four-week period to ensure transparency and stakeholder involvement.

[1] Expert Group E03030**.**

5. EXERCISE OF THE DELEGATION IN THE NEXT PERIOD

It is deemed necessary to exercise the empowerment referred to in Articles 4(3) and 20(2) of the Directive for the following reasons.

- In accordance with Article 4(3), by 12 January 2028, the Commission is required to adopt a delegated act setting out a threshold for water leakage levels in water supply, based on the ILI or another appropriate method. The delegated act should be drafted using the Member States' assessments and the EU average leakage rate determined on the basis of those assessments. The Member States were to communicate the results of the assessment to the Commission by 12 January 2026. The Commission is currently assessing these results.
- Under Article 20(2), the Commission will continue to monitor the possible need to amend Annex III or amend the parametric value of Bisphenol A to align them with scientific and technical progress, in order to decide whether delegated acts are required.

6. CONCLUSION

The Commission has exercised the delegated powers granted under the Drinking Water Directive appropriately and in accordance with its empowerment provisions.

Given that the implementation of the Directive is an ongoing process, particularly as regards establishing a threshold for water leakage levels in the water supply chain and the possible need to amend Annex III and/or the parametric value for Bisphenol A due to continuous scientific and technical progress, the Commission sees a clear need for the **tacit extension** of the delegation of power for a further period of five years.

The Commission invites the European Parliament and the Council to take note of this report.