

## **The provisions of the Protocol on Water and Health and their relationship with European Union law governing water and health**

*Summary of the Interpretive Note prepared within the framework of the Consultation Process with Estonia, Latvia and Lithuania*

### **Background**

- The Protocol is an innovative instrument, which approaches its objective from an integrated water, health and environment perspective. Its overall objective is to promote the protection of human health and well-being, through improving water management, including the protection of water ecosystems, and through preventing, controlling and reducing water-related disease.<sup>1</sup>
- The legal text of the Protocol spells out the connection with the human rights to safe drinking water and sanitation by including a universality dimension as part of its aims. In order to achieve the objectives of the Protocol, States Parties are required to pursue the aims of access to safe drinking water and provision of sanitation for everyone.
- The objective of the Protocol is placed under the framework of sustainable development, emphasizing the full consistency between the Protocol and the 2030 Agenda for Sustainable Development, particularly Goals 6 on clean water and sanitation and 3 on good health and well-being.
- The Protocol binds 27 states in the pan-European region, including 16 member States of the European Union (EU).<sup>2</sup>

### **Context for the Interpretive Note**

- The interaction between Protocol requirements and EU law was repeatedly raised as an issue by the Protocol Parties that are also member States of the European Union.
- The Meeting of the Parties to the Protocol recognized the need to provide further guidance in this regard.<sup>3</sup>
- Within the framework of the Consultation Process, Estonia, Latvia and Lithuania requested the Compliance Committee to clarify the relations between the Protocol and EU law governing water and health.
- The Interpretive Note was prepared to respond to this specific request. However, the note is of general relevance and interest to Parties to the Protocol and other States considering accession and/or working within the framework of the Protocol that are also member States of the EU or are aligning their national legislation with EU law.
- At its fifth session (Belgrade, 19-21 November 2019), the Meeting of the Parties endorsed the interpretive note, drew the attention of Parties to the Protocol and other States that are member

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<sup>1</sup> Read more about the Protocol and its areas of work on its [webpage](#).

<sup>2</sup> Belgium, Croatia, Czechia, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Romania, Slovakia and Spain.

<sup>3</sup> See [Decision IV/2 on general issues of compliance](#).

States of the EU to the conclusions of the note, and encouraged Parties to give due consideration to such conclusions when implementing their obligations under the Protocol<sup>4</sup>.

### Key messages of the Note

1. The Protocol and the relevant EU instruments analyzed in the Note entertain an overall **synergistic relationship, with converging objectives**.
2. The Protocol pursues the interrelated goals of water, health and environment protection and the implementation of the human rights to safe drinking water and sanitation. It is organized around a three-tiered system, consisting of:
  - (a) A general duty of due diligence
  - (b) Guiding principles and approaches
  - (c) Four clusters of more specific obligations: target setting, monitoring and progressive achievement; surveillance, early warning and response systems against water-related diseases; access to information, public participation and access to justice; cooperation in transboundary and international matters relating to water and health.
3. In most areas, the EU Directives related to water are **more specific** than the Protocol and they can therefore serve to implement it.
4. The Protocol has a clear legal basis and practical tools<sup>5</sup> for supporting the progressive realization of the **human rights** to safe drinking water and sanitation and for protecting **vulnerable and marginalized groups**. This can lend support to the implementation of relevant EU law.
5. Moreover, the Protocol **can complement** the EU framework in the areas of:
  - Small-scale water supplies and sanitation services;
  - Good practices for the management of water supply;
  - Technical infrastructure for water supply and sanitation;
  - Quality of wastewater used for irrigation;
  - Reduction of and response systems to water-related diseases.
6. The Protocol offers a clear legal basis for **international/transboundary cooperation** with its Parties, including **neighboring States** that are in the process of accession to the EU and other neighboring States, which are not subject to EU law.
7. The Protocol can also be used as a model for **wider development and international cooperation efforts** in the areas of water, sanitation and health.
8. The obligation of **reporting** under the Protocol is distinct and additional to those under EU law. However, Protocol Parties can partly rely on the information used for EU reporting when reporting under the Protocol. There are also multiple **benefits** of reporting under the Protocol,

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<sup>4</sup> See [Decision V/1 on general issues of compliance](#), for further details see also the [Report of the Meeting of the Parties on its fifth session](#).

<sup>5</sup> See in particular the "[Equitable Access Score-Card: supporting policy processes to achieve the human right to water and sanitation](#)". For more details see the [dedicated webpage](#).



e.g. collection of integrated data on water, sanitation and health and enhancement of intersectoral cooperation.

9. In the field of **public health**, the Protocol's horizontal obligations are consistent with EU law on cross-border threats to health, supporting cooperation and coordination among States. The Protocol also supports cooperation with States that are not members of the EU and has a thorough reporting system for water-related diseases.
10. The Protocol sets a floor of **minimum requirements**. States are free to adopt more stringent measures, whether under EU law or domestic law.