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Legal aspects of ensuring the safety of water as a foodstuff

Aspetti giuridici per garantire la sicurezza dell'acqua
come alimento

The purpose of the discussion is to determine the relationship of the regulation of the right to water with the requirements of its safety for health and life against the background of the concepts of food safety and food security. The author comes to the conclusion that due to the presence of a requirement to guarantee availability of water in general, which is contained in the requirements of drinking water, there exists a link between the regulation of water safety and its availability in different perspectives that may be described as a relationship of dominance or even superiority of the right to water over the regulation of the safety of water as a product. Keeping in mind the nature of the obligations of the Member States regarding the implementation of EU directives articulated in the case law of the Court of Justice, the right to water should be a matter of result.

Keywords: water safety, right to water, food safety, food security

L'articolo si propone di determinare quale sia il legame tra la regolazione del diritto all'acqua e i requisiti della sua sicurezza per la salute e la vita nel contesto del concetto di sicurezza degli alimenti e di sicurezza alimentare. L'autore giunge alla convinzione che, poiché tra i requisiti degli standard di qualità dell'acqua potabile rientra il requisito di garantire la disponibilità in generale, il rapporto che intercorre tra la regolazione della sicurezza dell'acqua e la sua disponibilità in diverse prospettive può essere definito come una relazione di predominio o perfino di superiorità del diritto all'acqua sulla regolazione dell'acqua come prodotto. Tenendo conto della natura degli obblighi degli Stati membri in materia di modalità di attuazione delle direttive UE articolate nella giurisprudenza della Corte di giustizia, il diritto all'acqua dovrebbe essere una questione di risultato.

Parole chiave: sicurezza dell'acqua, diritto all'acqua, sicurezza alimentare, sicurezza degli alimenti

Introduction

1. Water is a component of the human body and a product necessary for life. Under Regulation 178/2002, water is a “foodstuff.”¹ As defined in this Regulation “foodstuff” includes beverages, chewing gum and any substance, including water, knowingly added to food during its manufacture, preparation or processing. The legal definition includes water that complies with the standards currently set forth in Directive 2020/2184.² It is crucial to ensure not only access to water, but above all water that is safe for health and life.

The safety of water for human consumption is affected by many different factors, and water safety can be discussed in various aspects. In particular, the issue can be studied from a variety of perspectives – both from the point of view of the availability of the “product” and its characteristics. The former approach refers to the concept of food security, and the latter concerns the safety of the product for human health (food safety).³

Further findings follow from the above statements. The safety of water for human health and life in legal terms is determined by several different pieces of legislation, mainly the legislation of the European Union. Already at the outset it should be emphasised that most of them do not belong to the classic “food law,” but are located in regulations of human rights protection and regulations of a “sanitary” or water management nature. In particular, when it comes to the former regulations, it should be pointed out that among the oldest regulations is the so-called “right to water” contained in Article 11 of the International Covenant on Economic, Social and Cultural Rights, which should be distinguished from the so-called “water rights” i.e. rights related to the use of water.⁴ An important moment on the road to the univer-

¹ Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety dated January 28, 2002, OJ EU L No. 31, item 1 (hereinafter: Regulation No. 178/2002).

² The aforementioned directive was repealed by Directive of the European Parliament and of the Council (EU) 2020/2184 of 16 December 2020 on the quality of water intended for human consumption (recast version), OJ EU L 435 of 23/12/2020, pp. 1–62 (hereinafter: Directive 2020/2184), with certain exceptions specified in Article 26 of Directive 2020/2184.

³ K. Leśkiewicz, *Bezpieczeństwo żywnościowe i bezpieczeństwo żywności – aspekty prawne*, “Przegląd Prawa Rolnego” 2012, no. 1, pp. 179–198.

⁴ International Covenant on Economic, Social and Cultural Rights opened for signature in New York on 19 December 1966, OJ EU 1977, No. 38, item 169 (hereinafter: ICCPR). This is indicated by: K. Bryl, A. Gadkowski, A. Hernandez-Polczyńska, J. Jaraczewski, Z. Kędzia, T. Lewandowski, J. Łukomski, B. Pawelczyk, A.N. Schulz, H. Suchocka, Ł. Szoszkiewicz,

sal recognition of the “right to water” as part of the international system of human rights protection was UN General Assembly Resolution 64/292 of 28.7.2010 entitled “The human right to water and sanitation”⁵. The right to water is a certain part of the right to adequate nutrition.

On the other hand, with regards water as a foodstuff, in addition to the basic provisions contained in Regulation No. 178/2002, other provisions that apply are those contained in Directive 2020/2184 on the quality of drinking water together with the national laws implementing this Directive and many others. When it comes to water safety, under food law water must not be harmful to health and fit for consumption.⁶ These general requirements of food law are complementary to those of Directive 2020/2184. However, natural mineral waters and waters with medicinal properties are excluded from the scope of this Directive, as such types of water are subject to other acts.⁷

Legal issues of the safety of water intended for human consumption have not yet been the subject of wider references in the literature, in particular there is no monograph devoted to water safety, and if the problem of water quality has been addressed, it has tended to be in relation to other issues, and not always in terms of legal considerations.⁸ Some related issues have been raised on the occasion of other aspects of food safety, water as a component of food⁹

in: Z. Kędzia, A. Hernandez-Polczyńska (eds.), *Międzynarodowy Pakt Praw Gospodarczych, Socjalnych i Kulturalnych*, Warsaw 2018, Legalis, para. 2.2.2. et seq..

⁵ Resolution A/RES/64/292. United Nations General Assembly, July 2010 General Comment No. 15. The right to water. UN Committee on Economic, Social and Cultural Rights, November 2002, https://www.un.org/waterforlifedecade/human_right_to_water.shtml [accessed on 12.10.2024].

⁶ Art. 14 Regulation No 178/2002.

⁷ Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (recast), OJ EU L 164, 26.6.2009, p. 45; Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, OJ EU L 311, 28.11.2001, p. 67. See more in point 4.

⁸ R. Klimek, *Polityczno-prawne aspekty braku dostępu do wody jako istotny problem o charakterze globalnym*, “Chorzowskie Studia Polityczne” 2014, no. 8: *Economic and Cultural Aspects of Selected Global Problems*, s. 103; B. Kuziemska, P. Klej, J. Trebicka, M. Popek, *Prawne aspekty kontroli jakości wody*, “Zeszyty Naukowe Uniwersytetu Przyrodniczo-Humanistycznego w Siedlcach” seria: Rolnictwo, 2016, no. 4, pp. 23–37.

⁹ P.P. Lewicki, *Woda jako składnik żywności*, “Przemysł Spożywczy” 2003, vol. 57, no. 5, pp. 8–14; M. Hoffman, H. Jedrzejczyk, *Rola wody w przetwórstwie żywności, żywieniu i zdrowiu człowieka. Część I: Naturalne wody mineralne i źródlane*, “Postępy Techniki Przetwórstwa Spożywczego” 2004, vol. 14, no. 1, pp. 13–17; E. Cybulska, *Woda jako składnik*

or water management in general.¹⁰ The development of the topic specified in the title justifies several arguments, one of them being the need to protect human health and life. There are also cognitive considerations.

In particular, the protection of human life and health comes down to guarantees of human rights – including the right to water. At the same time, as a result of various reasons, many people do not have access to water, or water suitable for human consumption. Approximately 2 milliard people worldwide lack safe access to drinking water, 3.6 milliard lack access to safely managed sanitation services, and 2.3 milliard are deprived of the ability to wash their hands with running water.¹¹ Roughly half of the global population experiences severe water scarcity for at least part of the year, a number that could increase as the climate crisis worsens.¹²

The current conflicts over water in the Jordan River Basin, or access to water sources or rather its lack caused by droughts such as in Somalia where about 70% of the sub-Saharan Africa's population has no access to safe drinking water and up to 43,000 people could have died due to drought in Somalia in 2022 alone, show the severity of the problem, the solutions to which most often come down to humanitarian aid. Ultimately, however, this does not lead to the elimination of the causes of water unavailability.

On the other hand, in the other aspect – the safety of water as a product – in practice, the legal requirements for water quality are not always observed, despite the fact that such situations pose a threat to human health, and more broadly to the animal world and the environment as a whole. In the past, the parameters that most often exceeded the acceptable standard included: colour, turbidity, iron and manganese content,¹³ and examples that may be mentioned include discharges of substances into the Oder River,¹⁴ or sewage discharges

żywności, w: *Chemia żywności. Skład, Przemiany i właściwości żywności*, Warszawa 2002, pp. 55–87.

¹⁰ D. Puślecki, *Ochrona wód w procesie produkcji rolnej w świetle nowych wyzwań*, "Przegląd Prawa Rolnego" 2023, no. 1, pp. 41–60; B. Rakoczy (ed.), *Wybrane problemy prawa wodnego*, Warsaw 2013, pp. 61 et seq.

¹¹ A. Beldowicz, *Coraz większe problemy z wodą na świecie. Niepokojące dane*, "Rzeczpospolita" 31.08.2023.

¹² *Aż 2 miliardy ludzi na świecie nie mają dostępu do czystej wody pitnej. Przybywa obszarów zagrożonych suszą*, "National Geographic" 22.03.2022, <https://www.national-geographic.pl/arttykul/az-2-miliardy-ludzi-na-swiecie-nie-maja-dostepu-do-czystej-wody-pitnej-przybywa-obszarow-zagrozonych-susza-230322100650> [accessed on 31.08.2024].

¹³ B. Kuziemska, P. Klej, J. Trebicka, M. Popek, *Prawne aspekty kontroli...*, p. 24.

¹⁴ Law of 13 July 2023 on the revitalization of the Oder River, Journal of Laws of 2023, item 1963.

into the Vistula River in past years.¹⁵ At the same time, in the light of EU legislation, it is the responsibility of the authorities of the Member States to ensure the effectiveness of the EU's law on the quality of drinking water.

It may be concluded from this that the right to water is not sufficiently protected in various corners of the globe, and the quality of water is not always adequate. With this in mind, the purpose of the considerations is to determine what relations connect the regulation of the right to water with the requirements of its safety for health and life against the background of the concepts of *food safety* and *food security*. Due to the framework of the study, the considerations are not exhaustive. In the first part of the study, some aspects of the right to water in terms of international law will be addressed, and in the following part, selected issues of the safety of water intended for humans will be discussed.

1. The right to water and sanitation

The right to water and sanitation has been defined in international regulations, especially in the International Covenant on Economic, Social and Cultural Rights adopted by General Assembly Resolution 2200A(XXI) of 22 December 1966. An important issue for the effectiveness of these rights is the nature of the obligations assumed in the Covenant. Studies of international law indicate the complexity of the issue¹⁶. Indeed, the obligations of the states-parties are framed differently. For example, the content of the so-called "minimum obligation of the state" is that states-parties ensure the satisfaction of at least the minimum level of nutrition necessary to protect against starvation.

With regard to the right to adequate nutrition, which also includes the right to water, the obligations of states-parties are identified as primarily:

1) the respect of the right to adequate nutrition – in this regard, states must not take actions that lead to the restriction or nullification of access to adequate nutrition, they must refrain from actions even such as the destruction of agricultural areas;

2) the obligation to protect the right to adequate nutrition, which requires the state to ensure that third parties do not deprive the entitled persons of access to adequate food. This includes protecting food resources from the

¹⁵ W. Kamiński, *Podczas awarii „Czajki” do Wisły odprowadzono ponad 14 mln m sześć. ścieków*, Polska Agencja Prasowa, 28.08.2022.

¹⁶ K. Bryl et al., points 2.3. Państwo jako podmiot zobowiązany 2.3.1. Obowiązki pozaszanowania, ochrony i wypełniania prawa, Legalis

adverse effects of third parties (e.g., environmental destruction by industry), protecting food quality by establishing and requiring quality and safety standards, or protecting, especially children, from marketing practices that promote the consumption of inadequate food;

3) the obligation to fulfil the right in two dimensions:

– facilitating its exercise, manifested in the requirement for the state party to conduct proactive activities directed at assisting access to food, the means and ways of obtaining it, and¹⁷

– providing access consisting of guaranteeing food to individuals or groups who, for reasons beyond their control, are unable to provide it themselves .

The aforementioned duties within which agricultural areas have been mentioned focus on food availability. They are not the only snapshot of the obligations of state parties. The content also includes some elements of product safety. After all, if food is to be “adequate” or “suitable,” it must have certain characteristics. These obligations are combined with certain policies of law and government policy in general, which is characteristic of the concept of *food security*.¹⁸ The international regulations in question may also apply to the private sector, non-governmental organisations.

The literature notes that initially, in the course of the preparatory work on the Covenant on Economic, Social and Cultural Rights adopted by General Assembly resolution 2200A (XXI) (22 December 1966), the right to water was not sufficiently strongly emphasised. Only later did it gain attention from stakeholders. In 1977, the UN Water Conference in Mar del Plata adopted an action plan referring to the right of all peoples, regardless of their level of development and social and economic conditions, to access to drinking water in quantity and quality that meets basic needs.¹⁹ This was first achieved in 1979 with the adoption of the Convention on the Elimination of All Forms of Discrimination against Women.

Today, the right to water is interpreted broadly in the areas of its:

- *adequacy* of water and sanitation,
- *availability* of water and sanitation,
- *quality* of water and sanitation,

¹⁷ Ibidem.

¹⁸ K. Leśkiewicz, *Bezpieczeństwo żywnościowe...*, pp. 179–198.

¹⁹ Ibidem; Convention on the Elimination of All Forms of Discrimination against Women adopted by the United Nations General Assembly on December 18, 1979 of December 18, 1979, OJ EU 1982, No. 10, item 71.

- *sustainability* of water,
- *accessibility* of water and sanitation.²⁰

These different dimensions of human needs for water determine at the same time the areas where legislative interventions, government policies and NGOs are needed. They reflect the problems of inadequate technical infrastructure or its lack altogether, inaccessibility of water sources or lack of safe water, or use of water in a way that threatens groundwater resources on the ground. These issues resonate in many legislative acts of international rank, including those of the EU, other than the Covenant on Economic, Social and Cultural Rights adopted by General Assembly resolution 2200A (XXI) (22 December 1966) mentioned above, which cannot be discussed in this paper. Here the Agenda 2030 and the Sustainable Development Goals, or the European Green Deal Strategies and its partial strategic and legislative acts may be given as examples. They refer, among other things, so to the principles of water use, or to the requirements of protection well beyond the framework of water safety considerations, but affecting significantly the state of water safety in each of the mentioned dimensions.

2. Principles of water use

The safety of water for human health is affected by all activities connected with the private use of water for one's own needs as well as for business purposes, while water sources remain unchanged and their condition (quantitative and qualitative) depends especially on the way they are used. Water is an element of the natural environment and is subject to legal protection. Therefore, the greater exploitation of water resources, the worse their state and quality. Two Directives that ought to be mentioned here are Directive 2000/60²¹ establishing a framework for Community action in the field of water policy (the so-called Water Framework Directive) and Directive 1991/676 concerning the protection of water against pollution caused by nitrates of agricultural origin.²²

²⁰ K. Bryl et al., point 2.2. Przedmiot praw, Legalis.

²¹ Directive EC No. 2000/60 of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (the so-called Water Framework Directive), OJ EU L 327/1, and Council Directive EEC No. 1991/676 of December 12, 1991 concerning the protection of waters against pollution caused by nitrates of agricultural origin, OJ EU L 375/1.

²² On the subject of water protection in agricultural activities: D. Puślecki, *Ochrona wód...*, p. 4.

Groundwater is used primarily for the supply of water for human consumption (Article 30 of the Water Law).²³ And the general use of water from public inland surface waters, internal sea waters and the waters of the territorial sea, unless otherwise provided by law, is available to everyone (Article 32 of the Water Law).

The general use of water is for personal, household or agricultural needs, which does not require the use of special technical devices, as well as for recreation, tourism, water sports and, under the terms of separate regulations, amateur fishing. Every person, therefore, has a right to water insofar as it satisfies personal needs. The municipal council may introduce, by means of a resolution that is an act of local law, the ordinary use of surface waters other than those mentioned above serving exclusively personal, household or agricultural needs, and establish the permissible scope of this use.

In particular, the ordinary use of water is to meet the needs of one's own household or one's own farm (Article 33 of the Water Law). At the same time, this ordinary use of water is limited and includes:

- abstraction of groundwater or surface water in an annual average amount not exceeding 5 m³ per day;
- introduction of sewage into waters or into the ground in an amount not exceeding a total of 5 m³ per day.

The right to ordinary use of waters owned by the landowner and groundwater located in his land is vested in the landowner. This right does not entitle him to make water facilities without the required water consent.

In contrast, the use of water in the course of business activities requires permits from public administration bodies, especially a water permit, and is not only formalised, but also more restrictive.

The use of water is therefore not free, it is limited and strictly subordinated to legal regulation. Indeed, this resource is of an exhaustible nature and hence the need for its protection. The use of water even for personal needs is subject to payment. Indeed, water can be traded just like energy or rights.²⁴ After all, the provisions on the sale of things apply accordingly to the sale of energy, rights and water (Article 555 of the Civil Code). The rules of payment for water are regulated by the provisions indicated below.

²³ Water Law of 20 July 2017, consolidation text: Journal of Laws of 2024, item 1084 (hereinafter: Water Law).

²⁴ Civil Code of 23 April 1964, consolidation text: Journal of Laws of 2024, item 1061.

3. Collective water supply and sanitation

Management of water resources in terms of access to water “locally” belongs to municipalities. Indeed, on the territory of municipalities, water supply is the responsibility of the municipality.²⁵ In terms of drinking water quality, the provisions of the Act, which implemented earlier EU directives repealed by Directive 2020/2184, are in force. Poland has not yet had time to implement Directive 2020/2184. Directive 2020/2184 on the quality of water intended for human consumption, introduced a number of requirements for water safety and aimed at ensuring a high level of protection of human health by providing safe and clean drinking water throughout the European Union.

According to the Directive, water intended for human consumption means any water in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes in both public and private facilities, regardless of its origin and whether it is supplied from a distribution network, tankers, including mobile tanks, bottled or containerised, including spring water, as well as any water used by any food enterprise for the manufacture, processing, preservation or marketing of products or substances intended for human consumption. In this context, the Directive’s provisions apply both in situations where water is used for private purposes by individuals and by enterprises in the course of their business activities.

Member States are required to apply measures that will ensure that water intended for human consumption is healthy and clean. Under the Directive, a risk to human health is included as a “hazard,” which means a biological, chemical, physical or radiological agent in the water or any other aspect of the water’s condition that has the potential of having a harmful effect on human health. Water intended for human consumption must be “wholesome and clean,” free of all microorganisms and parasites, as well as substances in quantities or concentrations that pose a potential danger to human health and meet the requirements of Annex I, Parts A, B and D; Member States have taken all other measures necessary to comply with Articles 5–14 of the Directive.

The Directive’s provisions imply an integrated approach to the risks of water “from tap to table,” namely, in the supply, treatment and distribution of water for human consumption, the entire supply chain in the area of supply, intake, treatment, storage and distribution of water up to the point of

²⁵ Law on collective water supply and collective sewage disposal of 7 June 2001, consolidation text: Journal of Laws of 2024, item 757.

compliance specified in the Directive, including water supply systems, materials for contact with water for human consumption, that must be taken into account.

Among the legal solutions that have been targeted to ensure the quality of drinking water are the Directive's requirements for, among other things, risk assessment, identification of hazards and hazardous events in point-of-compliance supply areas, adequate monitoring in surface water or groundwater, or both, in point-of-compliance supply areas, or in raw water, of relevant parameters, substances or harmful substances within the range of parameters and substances specified in the Directive. The quality of drinking water must meet the requirements of chemical, physical and microbiological parameters as well as of many other substances that can affect health.

Attention was also drawn to the need to respond to new water contaminants, such as chemical micro-pollutants and micro-plastics. If necessary, limits for these substances can be introduced as part of an update to the Directive.²⁶ Micro-plastic currently poses one of the most serious threats to waters and oceans, including the animal world living there.²⁷ As a result of frequent currents, its particles reach the most remote areas of the Arctic, or Antarctic regions.

The executors of the provisions of the aforementioned Directive are the Member States, and it is generally incumbent on them to ensure the implementation of this legislative act.²⁸ In Poland, water supply is regulated by the aforementioned Act on Collective Water Supply and Collective Sewage Disposal; detailed requirements for the quality of this water are regulated by its implementing act.

The Directive obliges Member States to take measures to ensure widespread access to safe drinking water, including through the installation of public water access points, especially in public places such as parks or rail-

²⁶ Commission Delegated Decision (EU) 2024/1441 of 11 March 2024 supplementing Directive (EU) 2020/2184 of the European Parliament and of the Council by establishing a methodology for measuring microplastic content in water intended for human consumption (notified under document No. C(2024) 1459). C/2024/1459. Microplastic is defined as “a small distinct object which is a solid, insoluble in water, and which is partially or wholly composed of synthetic polymers or chemically modified natural polymers.”

²⁷ M. Matacz, *Mikroplastiku na Antarktydzie może być więcej niż sądzono*, Nauka w Polsce, 14.4.2024, <https://naukawpolsce.pl/aktualnosci/news%2C101560%2Cmikroplastiku-na-antarktydzie-moze-byc-wiecej-niz-sadzono.html> [accessed on 30.08.2024].

²⁸ Regulation of the Minister of Health of 7 December 2017 on the quality of water intended for human consumption, Journal of Laws item 2294.

way stations. It emphasises the need to ensure access to water for vulnerable groups, such as people living in poverty or ethnic minorities, who may have limited access to safe drinking water.

Drinking water quality regulations may be generally categorised as regulations largely concerned with product characteristics of a sanitary nature that, from the perspective of food law, impinge on the product's safety for health. On the other hand, from the perspective of access to safe drinking water, they shape one of the most important guarantees of human rights (right to water). Except that, unfortunately, they are not always properly implemented in Member States. As already mentioned, Poland has not yet fulfilled its obligation to implement Directive 2020/2184, while some other States have not met all the goals of EU drinking water quality legislation.

Meanwhile, according to the Court of Justice of the EU, the obligations of Member States imposed by the provisions of the Water Quality Directive are not only to implement the requirements as part of the so-called “diligent action”, but have the character of a “result.” As the Court of Justice has pointed out, according to the third paragraph of Article 288 of the TFEU, the Directive binds Member States with respect to the result to be achieved.²⁹ It is up to the Member State concerned to decide what measures are necessary to achieve the result, but there is no other option than to achieve it.³⁰ On several occasions the Court has emphasised the obligations of the Member States with respect to the level of water quality to be achieved, with regard to cases where the permissible levels of nitrates and pesticides found in drinking water are exceeded.

4. Types of water

In light of the current legislation, the following categories of water can be distinguished: water intended for human consumption, natural mineral water, spring water, table water and medicinal water. These are special categories of water, distinguished in the legislation from ordinary “drinking water” . Their special characteristics are due to the specific amount of mineral content

²⁹ Judgment of the Court of Justice of 25 January 2024 in case C-481/22 concerning Ireland's violation of EU regulations on the adequate quality of water for human consumption (European Commission v. Ireland).

³⁰ Judgment of 31 January 2008, Commission/France, C-147/07, EU:C:2008:67; Judgment of the Court of Justice of 14 March 2024, C-576/22 (European Commission v. Kingdom of Spain).

needed in the human diet and the distinctiveness of the regulations.³¹ Such types of water are covered by Directive 2009/54/EC and Directive 2001/83/EC, respectively. They are subject to special rules for control and supervision, packaging, labelling and information.

These waters are generally sold in packaging – bottles or cartons – and differ in quality and price in relation to drinking water.

Conclusions

The safety of water for human consumption, that is, drinking water and its special types is based on the requirements for water quality – microbiological, chemical, or the absence of substances specified in the regulations. When it comes to water as a foodstuff, it is a “product” derived from natural resources, which, after human development, has become an object of circulation purchased on a commercial basis. As a result of water use especially in the course of economic activities, water resources are sometimes exposed to pollution and reduction in size.

The existing Directive 2020/2184 no longer focuses only on the quality of drinking water and guarantees of its provision, but also refers to measures to increase the availability of water, taking into account the most vulnerable groups. The current regulation can be evaluated positively, as it provides Member States with various legal tools to secure compliance of water quality with legal requirements. However, as a result of the varying state of involvement of Member States in the implementation of the Directive, the levels of water safety in Member States vary. The need to strengthen the system of guaranteeing the availability and safety of water remains ever-present, as does the need to standardise the quality standard of drinking water.

It is noteworthy that in the EU legislation relating to the quality of drinking water, there is a certain “confluence,” not to say “bringing to a common denominator” of the requirements for the safety of water for human health and life and the requirements that raise the level of water availability, i.e. to the need to protect human health and life. Indeed, the same premises, composition and characteristics of water, as well as its availability in general,

³¹ Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (recast), OJ EU L 164, 26.6.2009, p. 45; Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, OJ EU L 311, 28.11.2001, p. 67.

determine safety in the dimension of food safety and food security. Using the example of the aforementioned regulations, it shows that the concepts of food safety and food security have more common elements than differences. The latter, once more pronounced, have become with the passage of time blurred, and the importance of the common axiological justification of the regulation of international law and food law in a broad sense has increased.

Since within the requirements of drinking water quality standards there is a requirement to guarantee the availability of water in general, the relationship linking water safety regulation and water availability in different perspectives can be described as a relationship of dominance, or even superiority, of right to water over the water safety regulation. Keeping in mind the nature of the obligations of Member States in the manner of implementation of EU directives articulated in the case law of the Court of Justice, the right to water should be a matter of result.

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