Living Rivers Europe

The EU Water Framework Directive
Fit for Purpose

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Introduction

The Water Framework Directive (WFD) is one of the most important pieces of EU environmental legislation ever to have been adopted. It revolves around a key idea that nature is the source of water and we must protect, maintain and enhance our water ecosystems if we want to have sufficient amount of water of sufficient quality available for all legitimate water uses in the future. With its ambitious and innovative approach to water management the WFD has already started a paradigm shift from fragmented policies dealing with specific pollutants to a holistic approach integrating all parts of the wider environmental as well as economic and social systems. However, this paradigm shift needs to happen in earnest if the ambitious objectives of the WFD are to be reached albeit within longer timeframe (ie by 2027) than adopted by the legislators in 2000 (ie 2015). The WFD established a legal framework for the protection, ecological enhancement and restoration of our rivers, streams, lakes, wetlands and transitional and coastal waters and set goals to prevent deterioration of the status of the water bodies at the moment of adoption and to achieve good status of water bodies across the EU by 2015, and 2027 at the latest. This should ensure proper functioning of the ecosystems and that water resources are available to support EU's economy and wildlife as well as well-being of its citizens. Almost 20 years since its adoption, the WFD has proven to be an effective, flexible and modern piece of EU law embedding principles of integrated river basin management into the legal framework governing water management in the EU Member States as well as neighbouring countries. As such, the WFD also has an impact on water management globally, serving as a reference for legal frameworks governing water management in other countries giving the EU necessary clout in the international negotiations.

The European Commission is currently carrying out a fitness check of the WFD, its two 'daughter' directives and the Floods Directive, as well as evaluating other pieces of water legislation such as the Urban Wastewater Treatment Directive. Living Rivers Europe coalition of environmental NGOs will contribute to the evaluation process which we expect to be carried out in an objective, fair, transparent, and evidence-based manner.

Based on our own assessment, we believe the WFD is fit for purpose and its ambitious objectives are justified and the main focus should be on improving its implementation and achieving coherence with other EU sectoral policies such as agriculture, energy and transport, as well as national and EU funding instruments. Any current shortcomings in its implementation would be better addressed through increased focus on enforcement and proper application of its provisions rather than on amending this ground-breaking piece of legislation, which could undermine nature conservation and sustainable water management efforts for years to come. Currently discussed amendments will result in weakening of the legal provisions and undermining of the common framework to give our most precious natural resource a sustainable future for the benefits of people and nature. In addition, attempts to revise the WFD will create significant level of uncertainty for businesses and is likely to also hamper ongoing voluntary initiatives to address water risks and build resilience. Given the current pace of biodiversity loss and degradation of aquatic ecosystems this would significantly compromise achievement of EU's global commitments established in the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals, and the Paris Agreement on climate change.

WWF EEB European Environmental Bureau ERN European Rivers Network European Anglers Alliance Wetlands International

1. Effectiveness (Have the objectives been met?)

The effectiveness of the WFD depends upon its practical implementation by the Member States including timely transposition into national laws, correct interpretation of the legal requirements, as well as ensuring legal obligations are translated into adequate measures supported by administrative and financial capacities at the Member State level. The analysis undertaken by the Member States establishing a baseline in 2009 demonstrated that the aquatic ecosystems were in a much poorer state than anticipated and due to delays and shortcomings in river basin management planning in both the first and the second cycles established by the WFD, the improvement in the overall status of EU water bodies currently is estimated to be limited[1] and the 2015 objectives of the WFD were missed.

Evidence suggests that the WFD provisions, when applied properly, are effective. The combination of measures adopted under the WFD delivered demonstrable impact in terms of pollution control reduction from urban, industrial and agricultural sources,[2] and helped to prevent deterioration by stopping or re-directing destructive infrastructure projects. WFD also stimulated the restoration of freshwater ecosystems across Europe as cost-effective approach to achieving good status/potential.[3]

In addition, WFD implementation has been credited for positive organisational outcomes and fundamental changes to EU water policy objectives[4]; it led to the establishment of robust management structures (river basin districts and authorities with competence and obligations regarding environmental objectives), and substantially improved monitoring and knowledge around the pressures, status and impact of the freshwater ecosystems as well as about combination of measures that can result in improvements in status in a cost-effective manner. Improved transparency in water management and in public participation is a direct result of the WFD requirements where they were implemented properly. The Common Implementation Strategy (CIS) initiated in 2001 to facilitate WFD implementation has improved cooperation among MS, stakeholders and the EC, and helped MS by clarifying the WFD's requirements, creating new implementation tools, and proposing solutions based on previous good practice and experience. The WFD has also improved transboundary cooperation by stimulating the establishment of more recent transboundary basin organisations (e.g. International Sava River Basin Commission) and empowering the existing international river commissions (e.g. along the Rhine and Danube) by providing them with a common legal framework.

However, there is still a long way to go. Due to low ambition of MS in implementing the WFD, which is evident through timid and ineffective River Basin Management Plans (RBMPs) and Programmes of Measures (PoMs) with poor deliverability[5], insufficient funding allocated to implement control measures, and excessive use and misuse of various types of exemptions provided under the WFD framework,[6] the initial objective of bringing all waters across the EU in good status by 2015 has been missed by a long shot. Currently, only about 40% of Europe's surface waters are estimated to be in good ecological and only 38% in good chemical status[7]. Groundwaters generally have better status (74 % in good chemical status; 89 % in good quantitative status), although problems in some basins are still severe (both in terms of chemical status[8] *often as a result of sustained pressure from agriculture*, and in southern MS of the quantitative status of groundwater,[9] *mainly due to water abstraction for public water supply, agriculture and industry*).

Given that the state of Europe's freshwater bodies remains critical throughout much of the EU for the ultimate 2027 environmental objectives to be achieved efforts and resources for better implementation and enforcement of the WFD will have to be significantly stepped up.

2. Efficiency (Were the costs involved reasonable, given the changes achieved?)

Overall, the WFD offers an outstanding cost-benefit ratio. The economic potential of full WFD implementation is significant: a European Commission study from 2011 estimated that the costs of *not* implementing the water related environmental acquis and achieving its objectives would result in annual costs in the range of EUR 5-20 billion.[10,11] Already in 2007 a report on Costs and Benefits associated with the implementation of the WFD had found that the costs of the WFD depend to a large extent on the cost-effectiveness of the combination of measures chosen but that the WFD will deliver a wide range of benefits for different beneficiaries including: avoided costs for treatment of drinking water; more and better

opportunities for recreation; improved health and living environments; improved protection of nature and biodiversity; increased resilience of ecosystems, with particular importance for climate change adaptation, including preventing economic losses associated with droughts and flooding.[12]

There have also been cost savings through the wider degree of coordination which WFD implementation has resulted in thereby reducing administrative burden compared to the situation before its introduction.

Moreover, the WFD is very progressive as regards the integration of economics into water management and environmental decision-making. In fact, the WFD is one of the first EU environmental laws to integrate economic aspects for the achievement of environmental objectives and sustainable resource management[13] – the WFD calls for the application of economic approaches and tools (such as economic analyses to underpin measures, including for selection of a programme of measures on the basis of the cost-effectiveness criteria), principles (e.g. the polluter/user pays principle) and instruments (e.g. water pricing). The WFD also allows for exemptions from reaching its objectives when the costs are deemed disproportionate based on assessment of costs and benefits and costs of alternatives for providing the same beneficial objective.

However, despite the fact, that economic valuation of the environmental and resource costs associated with water services and benefits associated with sustainable water use and good status of aquatic ecosystems are an essential element of the WFD, benefits of water improvement or protection measures often go unnoticed. The failure to recognise the socio-economic values generated by the improvement in water status has contributed to the low ambition in reaching WFD objectives on time. [14] Moreover, progress towards putting in place incentive water pricing to ensure adequate cost recovery has been extremely slow, even if it is recognised that this economic-policy instrument would generate potential revenue stream to fund the needed investments, significantly advance rationality and transparency of decision-making on water, as well as create hugely beneficial incentives for changing unsustainable practices (e.g. groundwater over-abstraction for agriculture), therefore supporting cost-effective achievement of the WFD objectives. In addition, not enough emphasis has so far been put on preventing deterioration of water bodies in high/good status, which could additionally decrease the costs of achieving the WFD objectives and sustainable water management.

3. Relevance (Is WFD and its daughter Directives still relevant to address the pressures on water ecosystems (are key problems adequately addressed)?)

The WFD framework remains relevant to addressing the key problems faced by European freshwaters as well as water related societal and economic challenges - from point source and diffuse water pollution, over-abstraction and hydro-morphological changes, to increasing water scarcity, droughts and floods, with climate change accelerating catastrophic water events at an unprecedented rate. As Member States themselves recognised, the WFD, together with the Floods Directive, is 'extensive, flexible, and essentially fit' to address these challenges (*Council Conclusions 2012; cf. also Council Conclusions 2016*).[15]

The approach, principles and tools entailed in the WFD remain relevant and, if the objectives are to be achieved, imperative. It is comprehensive enough to afford protection to all water bodies such as rivers, lakes, wetlands and groundwater, as well as transitional and coastal waters. The integrated management of water at the scale of river basins through development of RBMPs and associated PoMs is still recognised as essential to adopting and implementing effective measure tailored to specific circumstances and challenges, addressing most relevant pressures and drivers identified. Public participation and stakeholder engagement is acknowledged to be a crucial element in this process, fostering transparent and better decision-making in the complex domain of river basin planning and increasing the sustainability of implementation. The cross border nature of growing problems affecting the quality of water bodies ranging from more frequent extreme weather events to invasive alien species only reinforce the pertinence of the approach adopted and the river basin as the right scale to implement workable solutions.

The use of appropriate water pricing in accordance with polluter/user pays principle remains critically important for creating incentives for the efficient use

of water resources and deterring mismanagement, and nature based solution (better environmental options), promoted by the WFD, a relatively inexpensive means of addressing water challenges and delivering on multiple benefits (incl. nature conservation, floods and droughts risk reduction, groundwater recharge and climate change adaptation and mitigation). Describing ecosystem health with its 'one-out-all-out principle' the WFD recognises that these ecosystems are made up of complex, interconnected and interdependent relationships between species and physical processes, and embodies the precautionary principle in the face of uncertainty about how these complex web of interactions and inter-dependencies operate.

Sound implementation of the WFD, ensuring increased efficiency in the use of water resources while complying with environmental objectives set for the water bodies across the EU, will also facilitate the shift of the EU and its MS towards a greener circular economy, generating new competitive advantages for Europe.

The WFD also responds to a constantly high demand from citizens for the protection of the environment,[16] including of rivers, lakes, coasts and groundwater, the pollution of which regularly tops the list of main concerns for EU citizens (the most recent Eurobarometer placed water pollution as the fourth most important environmental issue just after climate change, air pollution and the growing amount of waste). The business community has expressed its concern over growing shared water risks on numerous occasions and the World Economic Forum's yearly global risks assessment has ranked water crises and mismanagement among top risks faced by our economy and societies seven years in a row now.[17] Full implementation of the EU water acquis would also address a range of other issues important to citizens and businesses (e.g. agricultural pollution, biodiversity decline, marine pollution, shortage of drinking water, frequent droughts or floods).

Keeping water sources healthy through the WFD is key to the success of several Sustainable Development Goals, in the EU and abroad, which all MS and the EU have committed to achieve by 2030. As recently recognised by the High Level Panel on water, convened by the United Nations and the World Bank Group, water is the common currency which links nearly every SDG, and the way it is managed will be crucial in determining whether the world achieves Agenda 2030.[18] Similarly, sustainable energy generation and water management including for improved climate mitigation (roll out of sustainable renewables; mitigating potential of freshwater ecosystems) and adaptation (esp. floods, droughts) is important for delivering on the Paris Agreement, given the importance of water as the medium through which climate change exerts its clearest and most direct impact on our livelihoods and on numerous economic sectors (e.g. agriculture, energy and tourism).[19]

4. Coherence (Does the policy complements other actions or are there contradictions?)

The WFD is coherent with other relevant pieces of EU environmental legislation (e.g. Birds and Habitats Directives, Marine Strategy Framework Directive, Environmental Impact Assessment (EIA) and Strategic Environmental Assessment Directives (SEA), Industrial Emissions Directive, EU chemical legislation) as well as with the wider EU acquis. The WFD has brought about a very significant streamlining and simplification of the EU water legislation. There is no major lack of coherence within the body of EU water policy, although some improvements are possible in relation to harmonising the reporting cycles of different directives. It contributes for example also to human health through safe and affordable clean water for drinking (Drinking Water Directive) and bathing (Bathing Water Directive).

In particular the WFD complements the Nature Directives through its primary focus on the basin scale and the state of biological, chemical and hydromorphological character of water bodies, supporting the achievement of favourable conservation status of habitats and species. There is room for improving the consideration of WFD objectives in relevant horizontal environmental policies in particular in practice, such as for example the consideration of impacts of infrastructure projects on ecological status of water bodies, for example through the provision of further harmonised methodologies in the context of impact assessments (EIA and SEA Directives).

The WFD supports the EU's economic development related objectives. Although WFD allows for exemptions and requires putting mitigation measures in place when these are applied, it remains clear that long term economic development will not be possible

without achieving good status of water bodies and aquatic ecosystems.

Achievement of the goals set out in the WFD has, however, been significantly undermined not only by inadequate implementation and underfunding, but importantly so by unsustainable practices promoted under the EU's sectoral policies (especially agriculture, energy, transport). The ministers themselves thus recognised the need for better integration of sustainable use and management of water, into other relevant policies such as agriculture, energy and transport at all levels, as well as into relevant EU financial mechanisms.[20] In this respect the potential of the RBMPs to act as integration tool and tool to drive investment and socio-economic development, for example, has not yet been fully exploited.

5. EU added value (Did the EU action provide a clear added value?)

The WFD has been the main driver in developing a more stringent and ambitious national legislation for the protection of water.

It further provides a vital cross-border protection of freshwater ecosystems, including through supportive specific provisions which can be credited for facilitating cooperation, for example in the context of the International Commission for the Protection of the Rhine and the International Commission for the Protection of the Danube River. Watersheds and the various pressures that affect their quality don't follow national borders, calling for a common approach and standards in water management to prevent inaction in one country undermining the efforts of countries downstream.

Harmonisation of objectives and action at EU level are also essential to prevent a race to the bottom (i.e. trying to attract investments by lowering standards). The WFD helps deliver a level playing field in competition terms for companies in support of the EU single market. The establishment of common water protection standards and procedures across the entire EU internal market provides favourable conditions for sustainable economic development. Any repatriation of competences in this field would lead to patchier, and very likely lower, protection levels combined with distorted competition and increased burden on companies operating across several EU Member States.

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[19] This impact is felt in a number of ways, including through climate-related increases in droughts and flooding, seasonal changes in rainfall, the growing scarcity of local water resources (e.g. as a result of glacial melt) and deterioration in water quality (e.g. the salinisation of freshwater as a consequence of rising sea levels).
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