



Position Paper

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EUROCHAMBRES statement on the Fitness Check of the Water Framework Directive and the Floods Directive

The EU Water Framework Directive (WFD) represents the centrepiece of the framework for the protection and sustainable management of European inland surface waters, transitional waters, coastal waters and groundwater. It aims at achieving good environmental status for all water bodies. The implementation of the Directive has led to significant improvement in water quality across the Union, especially for ground water. It also significantly enhanced the availability of data and understanding of water quality and substance concentration. In addition to environmental considerations, the Water Framework Directive also incorporates economic factors in order to take into account all aspects of water management and ensure a balanced approach.

In light of the Fitness Check of the WFD, EUROCHAMBRES would like to underline the potentially very wide scope of burden on the private sector concomitant to its implementation, including time delays and high costs incurred due to management plans. In the framework of the present consultation, we would therefore like to point out a number of key considerations for the future revision of the WFD.

Ambitious but unrealistic targets and timeframes

The environmental objectives of the WFD are from our point of view barely achievable within the given timeframe. The costs incurred sometimes jeopardise the commercial viability of projects. Costs for appraisals, delays in projects and possible legal proceedings have to be borne by the companies involved and can render approval for projects in industry, shipping and water tourism nearly impossible.

Even with the most radical measures it seems unlikely to date that the Member States can entirely achieve the objectives until 2027. We therefore call for a flexibilisation of the timeframe beyond 2027 in order to allow for the implementation of the required improvements.

Design of water quality assessment frustrating

The “one-out-all-out” principle stipulates that the overall status of the water quality is based on the worst quality element analysed. In practice this leads to a situation where the time consuming and costly efforts of companies to limit impacts of their activities and improve the water status are not visible and neither is the progress made for the entire waterbody. The progress made in single categories is not reported accordingly. So, although significant progress has been made in the vast majority of EU water bodies, this is not reflected by the Directive’s reporting systems. This discourages companies from taking the necessary steps.

EUROCHAMBRES therefore consider it useful to state the actual progress per theme, and which actions can and will be directed towards achieving the objectives of the WFD.

Economic considerations not sufficiently taken into account

Recent decisions of the ECJ in relation to water legislation¹ have led to a significant complication for project applicants. Many projects only get permits on the basis of exemptions from the prohibition to deteriorate (Art. 4 WFD). A water management on this basis does not encourage the private sector to invest in sustainable activities, which can be especially harmful for economically disadvantaged regions.

In the context of water management plans and the decisions of suitable measures, some of our members experienced only superficial consideration of economic interests. Sometimes, charges applied did not correspond to the polluter-pays-principle and were thus disconnected from whether the water use of a company actually affected its status. In particular, in order to contribute to legal certainty for companies, it would be useful to define a de minimis threshold.

Considering long-term infrastructure, EUROCHAMBRES would like to note that the rules laid down in the WFD potentially impede projects contributing to the global competitiveness of European businesses.

Diverging implementation of WFD

Different interpretation of the definition of “no deterioration” and requirement “to improve” water status has led to significant delays and cost increases due to lengthy legal proceedings in some cases. This shows the need to clarify these definitions in order to prevent legal uncertainty due to different national implementation.

When it comes to reporting and although there has been progress in this regard, we still observe some differences across Member States, which result in a lack of comparability. For instance, there is still a large discrepancy in the number of substances defined as River Basin Specific Pollutants (RBSP). In addition, the proportion of water bodies whose status is reported as 'unknown' differs widely between Member States.

¹ Decisions C-461/13; C-664/15; C 529/15

Thirdly, while some Member States extrapolate sample monitoring results to all surface water bodies (namely Austria, Belgium, Germany, Sweden and Slovenia), some report failure only where it is confirmed.

Potential conflict of objectives

When setting the goals of the WFD, namely to achieve a good quality for different types of waterbodies, against climate goals, namely to reduce greenhouse gas emissions e.g. via the production of renewable electricity, a conflict of objectives may arise. At the time of the introduction of the WFD there were no specific plans yet for harmonised renewable energy or decarbonisation goals. However, the sustainable use of water for renewable energy generation may be significantly complicated by an interpretation of the WFD focussed predominantly on water-ecology. Both elements must be given due consideration in approval procedures, in order for the future WFD to contribute to achieving the objectives of the Paris Agreement

Conclusion

The basic design of the WFD can lead to a time delay for projects of up to a year, according to an assessment carried out by the Northern German Chambers of Commerce and Industry. In addition, the inhomogeneous implementation and application of the rules laid down in the WFD and its adjacent Directives creates an environment of legal uncertainty for companies. Finally, the potential conflict of objectives between the sustainable use of water and water protection can impede hydropower and other projects that contribute to reaching the climate goals of the Paris Agreement.

In EUROCHAMBRES' point of view, these factors represent considerable disincentives for investment and thus a constraint for sustainable economic activities that involve the use of waterbodies. Environmental and economic considerations have to be very carefully reconciled.

EUROCHAMBRES – The Association of European Chambers of Commerce and Industry represents over 20 million enterprises in Europe – 93% of which are SMEs – through members in 43 countries and a European network of 1700 regional and local Chambers.

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