



EEAC WORKING GROUP ON FRESH WATER AFFAIRS

Subject: Session outcome letter by the Chairman of the EEAC Working Group on Fresh Water Affairs

Brussels, February 2020

Dear Colleagues,

The Working Group on Fresh Water Affairs met online with other stakeholders to discuss the outcomes and possible consequences of the recent EU Water Directives fitness check. These Directives are crucial tools for achieving the goals set out by the European Commission in the Green Deal, and are to be considered important pillars to achieve the SDGs, especially SDGs 6, 14 and 15. Hans Stielstra (European Commission, DG Environment) guided the participants through the fitness check and its outcomes¹. Possible consequences of the fitness check for the work ahead were debated among all participants. In this session outcome letter, I wish to share the main observations and findings of our gathering.

Introduction

The European Commission (EC) performed the fitness check of the European Union's Water Directives² and shared its findings in December 2019. In the run up to the fitness check, several key publications were issued by the EC and the European Environment Agency (EEA)³. These publications underlined the ongoing challenges the EU and its Member States face to successfully implement European fresh water policies⁴.

The fitness check's objective was to: A) assess the performance of the four EU Water Directives, and B) check whether the EU Water Directives are fit for purpose⁵. To this end, the EC used a variety of sources⁶. In this context, the response level of the public consultation was particularly noteworthy⁷.

¹ The presentation can be found [here](#)

² Water Framework Directive (WFD); Environmental Quality Standards Directive (EQSD); Groundwater Directive (GWD); Floods Directive (FD).

³ 'European waters: assessment of status and pressures (EEA, 2018)' ; The fifth implementation report (EC, 2019); and the European environment: state and outlook (EEA 2019)

⁴ Around 40% of surface water bodies in good or high ecological status and 74% of groundwater in good chemical status and 89% in good quantitative status

⁵ According to the EC Better Regulation Agenda

⁶ Sources included: EC implementation reports; reports from the European Court of Auditors; studies and reports from Member States (including RBMPs and FRMPs); European Environment Agency reports; Joint Research Centre studies; statistical data (e.g. from European Environment Agency and Eurostat) ; EU-funded studies; academic papers and position papers from Member States and interest groups.

⁷ More than 375,000 replies, about 1,950 of which were individual replies.



EEAC WORKING GROUP ON FRESH WATER AFFAIRS

The Fitness check: conclusions

On a positive note

In its findings, the EC concluded that the four EU Fresh Water Directives are broadly fit for purpose and that progress towards a satisfactory status of European fresh water bodies remains slow⁸ but steady.

More specifically, the EC concluded that a **governance framework had been successfully set up for integrated water management** and that **deterioration of water status has slowed down**. This decrease is, for instance, a consequence of the effective use of the non-deterioration principle, which prohibits the decline in water quality⁹.

One driver that may have contributed to halting further deterioration is the positive spinoff from **EU funded projects**, such as projects undertaken as part of the Regional and Cohesion Funds, as well as the cross-references that were introduced between EU water policies and EU cohesion and other environmental policies.

Furthermore, the EC concluded that through enhanced monitoring requirements within the EU Water Directives, as well as due to ongoing digitalisation, **monitoring capabilities have increased**. However, further improvements can be achieved in the near future.

To conclude, the EC argued that the EU Water Directives have shown to be **both prescriptive and flexible enough** to address new challenges, such as Climate change, emerging pollutants and micro-plastics.

Scope for improvement

However, there remains scope for improvement. The main issue is the speed of implementation: less than half of EU's fresh water bodies are in good environmental status (GES), despite the 2015 deadline. Consequently, **implementation needs to accelerate** substantially and become **more effective**. Such acceleration and effectiveness should – for example – be achieved through better enforcement, joint implementation efforts and by enhanced cooperation between the EC and EU Member States. This, however, will not be an easy task, as it has proved more difficult than anticipated to establish the necessary governance framework, taking into account specific conditions in each Member State.

Another matter that requires attention is **policy integration**. Although progress is being made in integrated water management, the actual integration of the aims and conditions of the Water Directives with other policy areas needs to be advanced. Especially since major challenges remain with regard to the integration of water policies in key areas such as agriculture, energy and transport.

⁸ In this context it should be noted that the 'one-out, all-out' principle can make showing progress challenging.
⁹ Article 4 §1(a)(i) and §1(b)(i)



EEAC WORKING GROUP ON FRESH WATER AFFAIRS

The **lack of investment** also needs to be addressed. In this context, it is interesting to consider that although studies suggest the benefits of measures outweigh the costs, insufficient use is being made of the principle of cost recovery. Consequently, Member States deprive themselves of sources of revenue, generating financing gaps.

The fitness check: what's next?

Water policies in the context of the EU Green Deal

It was noted that the **EU Green Deal** includes many potential actions that might positively interact with the fresh water domain. These actions include: 1) the Green Deal's investment Plan (financing mechanism), the upcoming Circular Economy Action Plan (efficiency), Biodiversity Strategy (enhancing water quality), Farm to Fork Strategy, as well as the Chemicals strategy (water quality and quantity) and the Zero Pollution Strategies for air, water, and soil (integrated nutrient management). Debates within the EC on these issues are ongoing, while it is expected that stakeholder involvement in the preparatory process towards the Zero Pollution Strategy will be more extensive than in the preparation of, for instance, the circular economy strategy or the biodiversity strategy.

Legislative and policy follow-up

The proposals for the water re-use regulation and the recast of the Drinking water directive are expected to be adopted soon. It remains to be decided how proceedings with regard to the **Urban Waste Water Treatment Directive** will evolve after publication of its evaluation¹⁰. It is, however, expected that the **Council of the European Union**¹¹ in March 2020 will be decisive when it comes to the formalisation of the next steps on the Urban Waste Water treatment Directive and the Water Framework Directive. However, it is already known that a revised list of **priority substances** will be presented this year.

It was also stated that **Impact Assessments** have to be executed if changes in the fresh water directives are to occur. Budgets are being made available to execute such Impact Assessments, depending on the next steps.

The fitness check: possible consequences

Following the introduction by Hans Stielstra on the outcomes and next steps, possible consequences of the fitness check outcomes were discussed by the participants .

The need for better integration

It was stated that the need for integrated policy approaches is particularly important as beneficial elements in one domain may have a reverse effect in another. In this context, concerns were raised

¹⁰ See https://ec.europa.eu/environment/water/water-urbanwaste/evaluation/index_en.htm

¹¹ The Council configuration on Environment will convene in March 2020 to discuss – among other matters – the fitness-check outcomes of the EU Water Directives.



EEAC WORKING GROUP ON FRESH WATER AFFAIRS

with regard to the good environmental status (GES) of fresh water bodies in relation to the EC's ambition to boost the **use of inland waterways for transporting goods**. It was argued that fresh water policies should be sufficiently robust to ensure minimal impact by increased transport activities.

Also a possible conflict between fresh water policies and the European ambition to produce renewable energy resources was identified. In this context, **hydropower** was mentioned. Although hydropower can provide emission-free energy, hydropower stations can also inflict quite severe environmental trauma on ecosystems. It was therefore argued that increased use of hydropower technology is possibly incompatible with reaching GES by 2027.

Concerns were also raised in terms of **food production** and fresh water policies. It was argued that better links between these two domains, including water extraction and funding possibilities, should find their way into the new *Farm to Fork* strategy of the EC to avoid negative spillovers and pressures as well as to enhance mutual reinforcing mechanisms.

The options for a mixed and combined effects of chemicals approach

With many differences between Member States in the designation of river-basin-specific (or groundwater-specific) pollutants, as well as in the setting of limit values, there is an urge to update the list of priority substances. In addition, the issue of mixed and combined effects of chemicals was raised. It was argued that the current single substance approach, combined with the 'one-out, all-out' principle of the Water Framework Directive (WFD), makes it rather complex to achieve a satisfactory status.

In a response, it was stated that a change towards a mixed and combined effects approach would, in principle, be better, but would require a change to the directives, as there is currently no legal basis to do so. Furthermore, the introduction of such change would first require an intellectual exercise. Firstly, the state of scientific knowledge should be considered sufficient to make the change, secondly, it should be affordable, and thirdly the availability of required methodology should be guaranteed. If this were the case, it could be interesting to reassess the mixed and combined effects approach for chemicals.

What does the outcomes of the fitness check mean for the post 2027 period?

The outcomes of the fitness check do not provide any direct grounds for a revision of the directives. However, only 40% of our fresh water bodies are in a satisfactory status and it is therefore rather unlikely that the satisfactory status of all fresh water bodies will be met by 2027. In this context, it was noted that the exculpation argument of **natural conditions**¹² is likely to be used as an argument by Member States for not meeting the deadline. The possibility for Member States to opt for permanently **lower objectives** post 2027¹³ was also raised. However, for Member States to use these options,

¹² Although measures to improve the status of a fresh water body have been taken, positive results have to be awaited due to natural conditions, WFD, art. 4 §4(c).

¹³ Article 4.5 of the WFD allow for such options.



EEAC WORKING GROUP ON FRESH WATER AFFAIRS

certain requirements need to be fulfilled. If these requirements are not met and objectives are not achieved by 2027, it still will be considered an **infringement**.

The debate about lowering objectives was continued. Concerns were raised that beyond the natural conditions argument, many Member States will see lowering objectives as the only tool to avoid infringement. Changing the Water Framework Directive might be necessary to avoid that scenario. In a response it was set out that there are various degrees and options with regard to changing the EU Water Directives. However, a fine balance should be aimed for, which would allow for possible continuation of activities post 2027, while not watering down the level of ambition. A political decision on these options is expected in March. For now, however, most¹⁴ European institutions seem to agree that the level of ambition should increase and that all efforts should be directed at achieving the objectives by 2027.

To conclude

This outcome letter is a mainline summary and an interpretation by the chairman of the contributions made by all participants, not a precise reproduction of the arguments put forward. Subsequent to the online working session, the EEAC Working Group will closely follow the outcomes of the Council of the European Union on 5 March, and will continue its work on fresh water affairs. I hope that this summary is useful to you in some shape or form.

Kind regards,

Jan Verheeke

Chairman of the EEAC Working Group on Fresh Water Affairs

¹⁴ The Council, the European Commission, and the European Parliament