

Opinion of the European Committee of the Regions — Fitness check of the Water Framework Directive, Groundwater Directive, Environmental Quality Standards Directive and Floods Directive

(2020/C 324/05)

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POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

A. Introductory comments

1. Welcomes the timely delivery of the fitness check of the Water Framework Directive (WFD) and Floods Directive (FD) in line with Article 19(2) of the WFD, which stipulates that ‘the European Commission will review this Directive at the latest 19 years after the date of its entry into force and will propose any necessary amendments to it’;
2. States that water is the most important common good and is a limited resource that needs to be protected and used in a sustainable way, in terms of both quality and quantity. Its protection and management transcend regional and national borders, since 60 % of river basins in the EU extend beyond the territory of a single Member State;
3. Points out that the EU’s water-dependent sectors generate EUR 3,4 trillion annually, equivalent to 26 % of the EU’s annual gross value added, and employ around 44 million people. In parallel, notes with alarm that only 40 % of Europe’s surface waters are estimated to have good ecological status and only 38 % good chemical status ⁽¹⁾;
4. Given the COVID-19 pandemic, calls for improved sterilisation of wastewater, an increased research into better preservation of wastewater (black and grey water), and an increased deployment of Nature-Based Solutions, in order to eliminate any epidemiological threats to water quality;
5. Stresses that water is an essential element for the environment and human existence. The local and regional authorities in the Member States have a key role to play in monitoring, as well as through preventive and remedial measures, to achieve and guarantee high quality water. Cities and regions are the forerunners in providing universal access to water and sanitation as a fundamental right; It is important to defeat the lack of expertise, over bureaucratisation and lack of multi-level approach which have a negative impact on efficiency, and can make the use of good practices at local and regional level impossible;
6. Points to the importance of water for the European citizens who decided to dedicate one of the first European Citizens’ Initiative (ECI) to addressing their concerns related to the EU’s water policy. This fitness check also follows on from the Commission’s commitments in response to the ECI’s Right2Water ⁽²⁾ on promoting access to water and sanitation;

⁽¹⁾ EEA Report No 7/2018, p. 6.

⁽²⁾ https://europa.eu/citizens-initiative/water-and-sanitation-are-human-right-water-public-good-not-commodity_en

B. The conclusions of the fitness check

7. Takes note of the fitness check's conclusion that the directives are largely fit for purpose, with some scope for improvement. The directives have led to a higher level of protection for water bodies and flood risk management. The fact that the WFD's objectives have not yet been fully reached is largely due more to inadequate funding, slow implementation and insufficient integration of environmental objectives in sectoral policies, rather than to any shortcoming in the legislation;

8. The fitness check identifies chemicals as an area where there is room to improve and achieve better results. While there is some evidence that the WFD, EQSD and GWD have led to reduced chemical pollution of the EU's waters, the analysis points to three areas in which the current legislative framework is sub-optimal: national differences (variability in lists of local pollutants) and the limit values they should not exceed; the list of priority substances (a lengthy process); and the fact that the EQSD and GWD evaluate the risk to people and the environment based mainly on single substances, not taking into account the combined effects of mixtures, and inevitably cover only a tiny proportion of the substances present in the environment;

9. Points out that the quality of drinking water resources remains under threat; regrets therefore the fact that the fitness check fails to focus on the functioning and implementation of Article 7 of the WFD concerning the non-deterioration of the quality of the water bodies used for drinking water abstraction and the reduction of the level of purification treatment required in the production of drinking water; drinking water operators should be able to rely on high quality water resources in order to reduce the cost of treatments; calls on the Commission and the co-legislators to ensure high standards of quality and safety, and policy coherence in view of the Drinking Water Directive recast, including its provisions on access to water ⁽³⁾;

10. Expresses its disappointment that the fitness check lacks a more in-depth analysis of the impact of the Weser ⁽⁴⁾ ruling by the European Court of Justice. The application of the deterioration and enhancement clauses laid down in Article 4(1) and of the exemption clauses laid down in Article 4(4-7) of the WFD lead to legal uncertainties for both operators and the authorities. In particular, there is a need for further analysis of the impact on activities that protect the environment (such as waste water treatment plants) or contribute to adaptation to climate change and energy and resource management;

11. Highlights that as currently more than half of all European water bodies are subject to exemptions, the challenges in achieving successful results by 2027 are substantial to put it mildly and are unlikely to be achieved by the 2027 deadline; underlines, therefore, that efforts, resources, better implementation and enforcement of the WFD will have to be significantly stepped up, and insists on the fact that even after 2027, the protection of water under the Water Framework Directive bodies must continue;

12. Calls on the Commission to supplement the evaluation with experience from the Member States that are applying the Water Framework Directive in accordance with the principles set out in the Weser ruling. It is concerning that a number of countries are not implementing the directive to a sufficient extent, but this is not a reason to disregard legal problems where countries are implementing the directive properly;

C. Policy coherence: the WFD and other EU legislation

13. Urges less silo-thinking on water and greater coherence and coordination across all interrelated EU legislation, in particular with regard to concerns on climate change, the circular economy and emerging pollutants. Climate resilient water management should be mainstreamed in all EU policies and a clear and ambitious aim set out in the WFD for both climate mitigation and adaptation;

⁽³⁾ Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) (COM/2017/0753 final — 2017/0332 (COD)).

⁽⁴⁾ Press release by the ECJ <https://curia.europa.eu/jcms/upload/docs/application/pdf/2015-07/cp150074en.pdf>
The full text of the ECJ judgment <http://curia.europa.eu/juris/document/document.jsf?text=&docid=165446&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1784620>

14. Stresses the interlinkage between the WFD and the FD with other policies where local and regional authorities have a crucial role to play, such as, land planning, agriculture, energy production, particularly hydropower (and energy supply), thermal use of water for heating and cooling, waterborne transport, human health, tourism, the implementation of the Urban Waste Water Treatment Directive (UWWTD) and the Nitrates Directive, etc.;

15. Welcomes, in this regard, the parallel evaluation of the UWWTD, a central pillar of the waste water service in Europe, with similar results to the fitness check: the need for an effective and efficient implementation of the existing legal instruments, triggering substantial societal and environmental benefits. However, regrets that the evaluation did not analyse the effectiveness of the UWWTD regarding discharges of industrial waste water into collecting systems and urban waste water treatment plants. Likewise regrets that there has been no legal analysis of how the inconsistencies between Article 4 of the Water Framework Directive and Articles 10, 7 and 2(9) of the UWWTD affect Europe's most efficient waste water treatment plants;

16. In addition, underlines the discrepancies in Member State approaches on phosphorus and eutrophication and encourages greater coherence between the UWWTD and the WFD;

17. Considers it essential for the European Commission to pursue increased enforcement of the legal obligations covering key pressures on the aquatic environment, such as those stemming from the Nitrates and UWWTD Directives. Vital attention should be paid to new emerging harmful trace substances including microplastics and pharmaceuticals, as current technologies used in waste water treatment plants are not entirely capable of removing micropollutants;

18. Underlines that intensive agriculture is amongst the main pressures on surface and groundwater, including abstraction and pollution by pesticides, fertilisers and pharmaceutical residue from livestock antibiotics. The next Common Agricultural Policy must fully account for the impact of agricultural activity on water and foster a shift towards more water friendly practices. Solutions may include proposals to widen the environmental conditionality for access to payments to all provisions of the WFD, promoting more ecological farming through 'eco-schemes', as well as encouraging dialogue and exchanges of best practices in which water operators, relevant NGOs and farmers take active part;

19. Recalls that water is a major determinant of a well-functioning biosphere, of bio-productivity and of absorption capacity, and that it affects and is affected by the activities of many different economic sectors, in particular agriculture, energy and industry. Ongoing or forthcoming discussions in the current legislative cycle are a great opportunity to ensure that water and the overarching objectives of the WFD are included in the policies covering other sectors. Underlines that the European Green Deal spells out ambitious objectives to reduce the use of resources, pollution and toxicity; consequently, strategies such as the 'new circular economy action plan', the 'Zero-pollution action plan', the new 'Biodiversity' or the 'Farm-to-Fork' strategies should clearly incorporate WFD objectives for full policy coherence;

20. Highlights the potential of using reclaimed water for agricultural irrigation to reduce water scarcity, support adaptation to climate change and promote circular economy. In this regards welcomes the adoption of the Regulation on minimum requirements for water reuse by the Council and the European Parliament and reiterates its position on water reuse as expressed in the corresponding opinion⁽⁵⁾;

21. Invites the Commission to establish a fully operational monitoring system for the regular collection of updated, measured data on pesticide residue in the environment (especially in soil and water), possibly based on the successful experience of the LUCAS (Land Use/Cover Area frame statistical Survey) soil monitoring system;

22. Welcomes the Commission's decision of 13 January 2020 to ban thiacloprid, a neonicotinoid-based pesticide raising environmental concerns, particularly regarding its impact on groundwater, and deemed dangerous to human health by the European Food Safety Authority; also calls for a ban on glyphosate and a CAP that supports the end of pesticide use;

⁽⁵⁾ Opinion of the European Committee of the Regions on 'Proposal for a Regulation of the European Parliament and the Council on minimum requirements for water reuse' (OJ C 86, 7.3.2019, p. 353).

D. Next steps to achieve good status in EU water bodies

23. Strongly underlines that the WFD has become a milestone in the improvement of water resources in Europe and a reference point for the other continents. However, considering the emerging challenges (e.g. climate change, microplastics, pharmaceuticals, chemicals, antibiotics, etc.) and new solutions (new technologies and methodologies) over the last 20 years, and in the light of the Sustainable Development Goals and the European Green Deal, the WFD urgently needs to be upgraded;

24. Calls, in this regard, for a change of paradigm to view biosphere in an evolutionary way (raising people's awareness that the biosphere has always been changing) and in a more ecosystemic manner (including sustainability of catchments and decarbonisation), as well as for promoting better understanding of ecological processes, including water, carbon, nitrogen and phosphorus cycles;

25. Points out that in the context of the new paradigm, every catchment should be considered as a unique 'Platonic superorganism' where a combination of geomorphology, climate, ecosystems (human modified and natural patches) and various forms of human activity affect the water cycle and ecological status. This should be considered not only from the security and resources perspective, but primarily as a way of safeguarding a sustainable future, health and a good quality of life for all;

26. Calls for the conclusions of the fitness check to accelerate the development of a transdisciplinary, integrative paradigm and related innovative solutions to achieve zero pollution for air, water and soil under the European Green Deal; considers it imperative to preserve and restore biodiversity in rivers, lakes, wetlands and estuaries, as well as to prevent and minimise any damage caused by floods;

27. Calls for a new, holistic dimension of the WFD to be developed in which flood prevention should be integrated with drought prevention management and measures to enhance catchment sustainability potential (from an ecohydrological perspective consisting of five elements: water, biodiversity, resilience to climate change, ecosystem services for society and other impacts, specifically culture and education — WBRSC);

28. Stresses the need to develop and implement best management practice and innovative technologies for reducing pollution from trace substances including pesticides, antibiotics, microplastics and other dangerous substances. Underlines that pollution needs to be addressed at source by means of a comprehensive approach based on informed and participatory processes involving citizens where all actors play a role, and the fairest and most cost-effective solutions are preferred. Solutions need to be adapted to local conditions, addressing consequences of non-implementation and respond to well-identified needs and long-term considerations rather than relying on 'easy technological fixes', as highlighted by the European Commission's fitness check;

29. Calls for more research and innovation of water source diversification in order to ensure water security, in particular for European cities that attract a growing number of citizens, and its regions that are increasingly hit by long drought phases;

30. Proposes urgent implementation of innovative tools to achieve good ecological status in European catchments, such as Ecohydrological Nature Based Solutions (EH-NBS, see UNESCO's *World Water Development Report (WWAP)*, '*Nature-Based Solutions for Water*'). Points out that EH-NBS upgrades the efficiency of hydrotechnical infrastructure, especially in agricultural and urban landscapes, in terms of mitigation and adaptation to the ongoing climate change and enhances the catchment sustainability multidimensional potential of the WBRSC (Water, Biodiversity, Ecosystem Services for Society, Resilience to climatic changes, Culture and education)⁽⁶⁾. It also promotes a holistic approach by encouraging transdisciplinary sustainability science and education;

⁽⁶⁾ Ecohydrology as an integrative science from molecular to basin scale: historical evolution, advancements and implementation activities.
Prof. M. Zalewski Ecohydrology and Hydrologic Engineering: Regulation of Hydrology-Biota Interactions for Sustainability.

31. Draws attention to small and medium sewage treatment plants that have a permanent problem with a periodical decline in efficiency, and recommends using the EH-NBS — Sequential Sedimentation Biofiltration systems to reduce pollutants pulses at outflows in order to achieve good ecological status of freshwater ecosystems;

32. Stresses that, according to the recent World Water Assessment Report, only 5 % of investments connected to water management use EH-NBS, whereas it should be more. Non-point source pollutions and urban storm water constitute almost 50 % of overall pollutions in the catchment (non-point source pollution from agricultural, landscape and urban storm water and surface water from transport infrastructure and the load of phosphorus and nitrogen from non-source pollution, e.g. in the Baltic Sea). They are most efficiently mitigated by EH-NBS. This means that EH-NBS need to be applied 10 times more often than they are now to mitigate the impact of pollution, mainly by NBS implemented in the framework of ecohydrological principles;

33. Stresses that with increasing climate change impacts, the FD should be integrated with the WFD to enhance ground water recharge, the retentiveness of river valleys through retention in the floodplains, polders and the restitution of water levels in surrounding lakes and wetlands. Underlines that enhancing catchment retentiveness is key, as water — by stimulating biological productivity — increases the accumulation of carbon and circulation of nutrients, thus preventing nutrients from leaking into water and the atmosphere and avoiding eutrophication and toxic algae blooms;

34. Underlines that the Common Agriculture Policy, the Nitrates Directive, and the Plant Protection Product Regulation should be harmonised with the WFD, aiming at the reduction of non-source pollution (nitrogen and phosphorus), which has recently been generating 20-50 % of the nutrient load to lakes, reservoirs and coastal zones. In regions where industrialised livestock farming is concentrated, it seems difficult to achieve this objective if the CAP and national policies do not commit — in accordance with the objectives of the Green Deal, and the biodiversity and 'farm to fork' strategies — to a significant reduction in this form of farming. Constructing highly effective land-water ecotone zones, consisting of denitrification and geochemical barriers, would also contribute to this. Emphasises that increasing the complexity of the agricultural landscape (land-water ecotones (LWE), tree rows (TR) and shelterbelts (SB)) reduces water loss from the soil caused by strong winds, but also prevents the loss of organic matter and carbon from the soil. Thus, such methods (LWE, TR and SB), as well as other measures to increase water retentiveness in the landscape, should be incorporated into the bioeconomy strategy. This could considerably increase carbon capture and storage, which is one of the priorities of the Green Deal;

35. Stresses that because storm water in urban areas may generate 10-20 % of the nutrient pollutants load in the catchment, the effective mitigation of this impact can be achieved — especially in new-build areas — by low-cost advanced EH-NBS, such as sequential sedimentation-biofiltration systems and hybrid systems which integrate traditional hydrotechnical infrastructure with the EH-NBS. This should be coordinated with measures to adapt the built environment to a changing climate. Where practicable, these solutions should also be implemented in the existing building stock;

36. Notes that, in its opinion on the reform of the CAP, the CoR proposed including five quantifiable environmental objectives (by 2027) in the next CAP, including a guarantee that 100 % of surface and ground water will comply with the Nitrates Directive without any exemptions;

37. Points out that timeframe for implementing the measures included in the relevant river basin management plans is too short, as the environmental response may take much longer than the six-year cycle. Therefore recommends that planning periods be extended by at least a further two periods up until 2039 and encourages local and regional authorities to develop innovative long-term projects⁽⁷⁾;

38. Considers that in some Member States water basin plans and national plans often lack solutions for settlements with low risk of floods, any construction, including refurbishments favouring flood protection became impossible. In this respect, the Commission and its agencies should more support Member States to find feasible solutions;

⁽⁷⁾ One example is the reintroduction of salmon, which were gradually disappearing from the Rhine in the 50s. The Rhine Commission started implementing practical measures in 1991, but the successful results were only visible 20 years later.

39. Stresses the need for greater coherence between the WFD, Directive 2009/128/EC of the European Parliament and of the Council ⁽⁸⁾ establishing a framework for community action for the sustainable use of pesticides compatible with the EU's environmental objectives and Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽⁹⁾ concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) in order to step up monitoring efforts and subsequently identify the best measures. Hazardous chemicals must be stopped at source, and manufacturers must take more responsibility for chemical substances placed on the market;
40. Calls for exploring the use of water bodies in implementation of the Green Deal, in particular the potential of algae farms as natural means of carbon capture and as a carbon neutral energy source and livestock feed;
41. Considers that implementation of the 2030 Agenda and the 17 UN Sustainable Development Goals should be an integral part of the revised WFD;
42. Calls on the EC to better link the WFD to local and regional territorial characteristics. Given the relative fragility of local and regional hilly and mountainous territory due to climate conditions and — particularly in the case of the Apennine river water bodies — their increasingly temporary nature, the reference to the conditions identified for this type of water body (and probably the monitoring methodologies set) does not adequately represent the objectives. This results in a classification that underestimates their quality even in the absence of anthropic pressure, a criticality which is exacerbated by climate change;
43. Calls on the Commission to help step up the implementation potential in cities and regions across the EU by expanding existing platforms for sharing best practice and know-how, as well as providing financial tools to support the transfer of innovative methods and systemic solutions between regions;
44. Believes that, considering the cultural, historical and social dimensions of water bodies, the WFD, with its comprehensive scope, should be used to promote transdisciplinary cooperation and transparency, and empower citizens as 'interested parties' so that they can express their opinions in the decision-making process, including on economic aspects covering all environmental services, rather than just those related to water supply and treatment;
45. In this context, in line with good governance, calls for a methodology to be developed for regular dialogue between all relevant stakeholders, decision-makers, societal organisations and scientists ('citizen science') to enhance their engagement in the development and implementation of innovative solutions;
46. Encourages national, regional and local authorities with publicly-owned water utilities to participate in the *Water Erasmus initiative* allowing technical staff to visit counterparts in other Member States and learn from their water management practices. Exchanges of this kind, as well as other initiatives such as technical workshops, should be scaled up, as they provide an opportunity to raise awareness, foster dialogue, learn about solutions and build capacity;
47. Calls on the Commission to apply all the instruments to avoid any kind of water wastage and to ensure proper maintenance of water flow facilities;
48. Calls on the Commission to remind all national and local institutions that water is an essential public good and, with a view to this, to better implement water pricing policies in line with the cost recovery principle, enshrined in Article 9 of the WFD, and to refer to households, agriculture and industry as 'water users', as well as to recommend the use of pricing measures such as summer tariffs or consumption-based block tariffs to promote the conservation of the resource. Furthermore, the 'polluter pays' principle should be fully applied through sustainable financing instruments such as Extended Producer Responsibility;

⁽⁸⁾ Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

⁽⁹⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

49. Stresses that shrinking global water resources create global scale patchiness, which can generate regional and global conflict. In order to prevent this, it is very important to share new paradigms, new methodologies and new systemic solutions worldwide, especially with areas where water resources are limited, such as Africa and the Middle East. Proposes that the Commission examine the potential for cooperation with the UNESCO Intergovernmental Hydrological Programme, to enhance the leading role of Europe in achieving global water sustainability;

50. Calls for the enforcement of the protection of water sources also in EU candidate and acceding countries.

Brussels, 2 July 2020.

*The President
of the European Committee of the Regions*

Apostolos TZITZIKOSTAS
