



**EUROPEAN ASSOCIATION
OF PUBLIC WATER OPERATORS**

Aqua Publica Europea's Position on the Water Framework Directive

26 February 2020

ABOUT AQUA PUBLICA EUROPEA

Aqua Publica Europea is the European Association of Public Water Operators.

It unites publicly owned water and sanitation services and other stakeholders working to promote public water management at both European and international level.

APE is an operator-led association that looks for efficient solutions that serve the public rather than corporate interests.



Summary

The **Water Framework Directive (WFD)** has been the cornerstone of EU water policy for the past two decades. As such, it has contributed greatly to sustainable development at EU level and played a fundamental role in **driving the EU's efforts for water protection**. In December 2019, the **European Commission published its evaluation of the WFD ('fitness check'¹)**, concluding that the Directive is "*broadly fit-for-purpose*", hence confirming the **benefits of the text and its necessity** to protect limited yet necessary water resources. Still, by noting that there is "*room for improvement*", the European Commission acknowledges that, after twenty years of application, some issues in implementation and new challenges have emerged that need to be addressed.

Water operators treat water to required levels before returning it to nature and have responsibilities in the protection of catchment areas. Based on the expertise of its members - public water managers providing water and sanitation services to over 70 million people in Europe - who are at the forefront of the implementation of the WFD, **Aqua Publica Europea, the European Association of Public Water Operators**, has outlined **several proposals to contribute to the ongoing discussions and support strong legislation** that can continue to bring benefits and also responds to the new ambitions of the **EU Green Deal**, presented in December 2019.

To support the efficient achievement of the WFD's objectives and meet its ambitious targets for the 'good status' of water bodies, Aqua Publica Europea identifies proposals to foster **better implementation at national level** and the need to have **up-to-date consideration of environmental risks**, as both pressures and our knowledge of them have evolved in twenty years.

- **Maintaining a high level of ambition.** The fitness check has highlighted that the overall approach based on river basin governance has had very positive effects, and that several **key principles** ('Polluter-Pays', pollution prevention over treatment, fair contribution of all users to cost-recovery) have played a key role in achieving the WFD objectives and need to be upheld.
- **More political ambition and coordination between EU and national levels.** With already strong rules in place, the priority is to support Member States' decision-making for better implementation: integrating the 'one-out-all-out' principle with complementary reporting tools ; providing guidance on economic analyses ; promoting best-practice sharing on measures and to support capacity development of administrations, as well as stakeholder engagement and transparency as a condition to, amongst others, encourage political commitments.
- **Flexibility and instruments to address contemporary challenges.** The WFD was deemed flexible enough to face the future. To do so, River Basin Management Plans (RBMP) offer opportunities to integrate new scientific knowledge and challenges, including consideration of climate change. This would improve risk management and support informed choices for environmental and financial resilience. Better coordination of legislation affecting water is also essential.
- **Adequate funding that enables the achievement of the WFD objectives.** EU support is critical to tackle challenges and effectively reach objectives, through a smart combination of EU funding based on a context-based analysis of needs.

¹ European Commission, *Fitness Check of the Water Framework Directive and the Floods Directive*, 10 December 2019



12 KEY POINTS TO STRENGTHEN THE WATER FRAMEWORK DIRECTIVE AND ITS IMPLEMENTATION

Aqua Publica Europea, the European Association of Public Water Operators, welcomes the outcomes of the European Commission's evaluation ('*Fitness Check*') of the Water Framework Directive 2000/60/EC. Whilst results confirm that the WFD offers a robust and coherent legal framework to protect water resources against increasing pressures from anthropic activities, more needs to be done to secure implementation that delivers the legislation's benefits.

Aqua Publica Europea and its members call on EU and national institutions to keep a high level of political ambition to achieve the objectives of the WFD, thus maximising environmental and societal benefits.

Maintaining a high level of ambition

1. The need to preserve a sound methodological approach

The Water Framework Directive is an essential piece of EU environmental legislation that has been driving, for the past twenty years, Member States' efforts for the protection of EU water bodies.

Its **high level of ambition** and its **methodological approach** to organise governance by natural (**river basins**) rather than administrative boundaries make the legislation appropriate to protect surface and groundwater, to promote sustainable water use and reduce water pollution.

The articulation of the principles outlined in the WFD - the '**Polluter-Pays**' principle; an **integrated and preventive approach to reduce pollution**; and a **fair contribution of all users to cost-recovery** – creates a comprehensive and cost-effective, framework, robust enough for long-term protection of water bodies and sustainable water management. **These principles must absolutely be maintained and enforced.**

More political ambition and coordination between EU and national levels

2. Supporting better decision-making towards effective improvement of water bodies

Since the adoption of the WFD, the status of European waters has improved, yet, slow implementation and wide use of exemptions suggests that the **objectives are unlikely to be achieved by the deadline of 2027**². Member States and authorities can, however, be supported in the application.

Important efforts have been made to improve the status of water: it is critical that they are **recognised and communicated**, in particular in the perspective of infringement procedures. Whilst the **'one-out-all-out' principle should be safeguarded**, as it streamlines reporting and incentivises efforts, the *Fitness Check* acknowledges that it may mask progress. To overcome limitations and risk that authorities focus on basins which are closest to thresholds (where additional efforts for compliance are minor) rather than the most polluted basins (where actions are more necessary), **complementary reporting methodologies (such as 'distance to target') would allow to paint a more accurate picture.**

² European Environment Agency, *European waters: Assessment of status and pressures 2018*, July 2018



In parallel, an **increased use of economic analyses** would help authorities assess the different **alternatives available** and to identify the cost of pollution from human activity or the redistributive effects of non-action. When clear trade-offs arise between economic and environmental interests, it is paramount for **political choices to be based on informed and participatory processes involving citizens**, addressing **consequences of non-implementation** but also avoiding the trap of “*easy technological fixes*”, as expressed in the Fitness Check, by preferring more adapted and long-term solutions.

3. Prioritising quality and affordable drinking water

As water is the source of life, its use **for drinking purposes should always be prioritised**.

As the WFD rightfully spells out the need to **protect waters used for the abstraction of drinking water** (art. 7), action is needed to address the fact that implementation **across the EU varies** and risks resulting in obstacles to the application of the Drinking Water Directive. In addition to **streamlining the application of article 7 through clear guidelines**, it is also necessary to **reduce pollution at the source and fully apply the precautionary principle**.

These elements contribute to **lower levels of treatment required to comply with standards** for drinking water quality and safety, likely to become more stringent with the upcoming adoption of the revised Drinking Water Directive³. **Less treatment contributes to reduction of costs, energy consumption and use of chemicals**, therefore altogether **benefiting human health and the environment and contributing to affordable drinking water for households**.

To support Member States, **EU-level multi-stakeholder dialogues**, including through the Common Implementation Strategy, are excellent channels to diffuse best practices for pollution prevention and catchment area protection, and the recourse to such platforms should be favoured.

4. Key principles for environmental sustainability, social fairness, and internal market functioning

To fully implement the ‘**cost-recovery**’ principle (article 9), it is necessary to have an effective and proportionate financial participation of **all water users**, including industry and agriculture, which, in practice often fails to materialise, as is also noted in the Fitness Check (“*the ‘adequate contribution’ of certain water uses remains low to non-existent in several Member States*”). **A smart combination of tariffs, permits and ring-fenced taxes needs to be considered to cover the costs**.

Cost-recovery is closely linked with the ‘**Polluter-Pays**’ principle. When the ‘Polluter-Pays’ is not fully applied, as is often the case, the risk is an unfair distribution of costs burdening households. **Beyond jeopardising social equity and affordability of essential water services**, there is also a risk of generating **hidden subsidies by households to localised polluting economic activities**, thus eventually resulting in **internal market distortions**.

Whilst the European Commission can support full application by issuing guidelines, **political will and ambition are essential** to take the necessary decisions for a fair approach to water financing.

5. A contextual approach involving all levels of government

³ European Commission, Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the quality of water intended for human consumption (recast) 2017/0332 (COD)



Water is a deeply territorial resource and responsibilities for its management are distributed at all levels of governments, from national to local. Therefore, full implementation is rooted in **seamless coordination between these different levels**, through dialogue, understanding of specific contexts and conditions, and tailor-made solutions to protect and preserve river basins.

Flexibility and instruments to address contemporary challenges

6. Addressing climate change in long-term planning

The fact that quality and quantity of our water resources are deeply affected by climate change, with more frequent and more extreme weather events such as floods and droughts, critically needs to be reflected in decision-making concerning water bodies. **RBMP are an opportunity to consider climate mitigation and adaptation measures** that are up-to-date and evidence and research-based.

Better information adapted to contemporary and future challenges will allow to opt for the most environmentally beneficial and resilient amongst the different alternatives. Some examples of options include: 'nature-based solutions' in the infrastructure choices; addressing the need for wetland restoration; and water use decisions (such as industrial and agricultural practices) based on local water availability predicted via accurate precipitation forecast. For this purpose, multi-stakeholder cooperation and coordination between administrations are essential.

7. Tackling existing, new and emerging water pollution

Since the adoption of the WFD, knowledge and monitoring capacity in detecting pollutants and understanding of their effects have significantly increased. Water bodies also face the pressure of **new pollutants and the effects of mixtures of substances, which should be part of the evaluation of water quality**. In accordance with the precautionary principle, **pollutants with high and proven toxicity and harmfulness should be banned from the market** (including imported products containing such pollutants) to ensure the achievement of good chemical status and coherence across all EU legislation on chemicals and pollutants.

8. Strengthening a coherent articulation within the body of EU water legislation

The close interlinkages between the body of EU water legislation – the Water Framework Directive, the Urban Waste Water Treatment Directive⁴ (UWWTD), the Floods Directive amongst others – needs to be coherently addressed to prevent legal uncertainty.

It is essential to avoid situations where **interventions to meet the objectives of a water directive adversely affect another**. For example, changes to the hydromorphology of a basin in order to reduce flood impact or risk may also have negative impact on the WFD objectives. In addition, the UWWTD plays a fundamental role in the achievement of the objectives of the WFD, yet **different approaches** – the UWWTD focuses on treatment levels and the WFD on eco-systemic objectives – risk creating competing requirements as well as inconsistencies regarding fundamental concepts (such as the notions of '*disproportionate*' costs and '*excessive*' costs).

Additional elements such as local priorities, investment capacity and competing measures or deadlines are so many considerations that affect the combined implementation of the directives in practice and why it is paramount that **water policy, and its implementation especially at local level, is fully aligned.**

⁴ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment



9. Towards more involvement of citizens in water governance

The very nature of water as a **non-commercial common good** requires the involvement of citizens and users. **Stakeholder information and participation in decision-making are essential to good governance**, as recognised at the international level, including in the *OECD Water Governance Principles*⁵, and in the WFD (art. 14) as an important element towards reaching the objectives. Other initiatives have also emphasised the importance of awareness on water issues, not least in the proposal for a recast of the Drinking Water Directive, in which confidence in tap water is central.

Considering the **cultural, historical and social dimensions of water** bodies, the WFD and its comprehensive scope, should be used as an instrument that empowers citizens, as ‘interested parties’, to participate in decisions and promotes transparency, including on economic aspects covering all environmental services, rather than only those deriving from water supply and treatment.

When decisions include trade-offs between different water uses or when environmental solutions are put in place (including green infrastructure), for example, cooperation is not only necessary between the many involved actors, but should include citizens, who are also affected. Citizens are also eager to take part in water decisions. Examples include the [Etats Généraux de l’Eau de Bruxelles](#), or the participation in [platforms developed by water operators](#).

10. Integrating water policy objectives into sectoral policy

Water affects and is affected by many different economic sectors, and in particular agriculture, energy and industry. Ongoing or forthcoming discussions are a great opportunity to ensure that water and the overarching objectives of the WFD are included in these policies. The ambitions of the Green Deal spell out objectives to reduce pollution and toxicity, therefore, strategies such as the ‘Zero-pollution action plan’ or ‘Farm-to-Fork’ should clearly reference WFD objectives for full coherence.

As intensive agriculture is amongst the main pressures on surface and groundwater, including abstraction and pollution from pesticides, fertilisers and pharmaceutical residue from livestock antibiotics, the next **Common Agricultural Policy** should serve as a spring board to strengthen the consideration of agricultural impact 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 and farmers take active part.

Adequate funding that enables the achievement of the WFD objectives

11. Promoting a smart combination of funds to respond to the diversity of national needs

The Commission concluded that lack of funding is one of the main obstacles to the implementation of the WFD. At the same time, evidence on **investment needs in the water sector (OECD⁶)** shows that, without the support of EU funds, several countries risk either failing to comply with legal obligations due to insufficient investments or impairing water affordability for households.

⁵ OECD, *OECD Water Governance Principles*, 2015

⁶ OECD, study on *Investments needs in the EU water sector* (unpublished yet)



To address these issues, it is key to promote **a smart combination of structural funds** - which play a role in facilitating access to private finance and lower financial costs of water protection-related investments - **EU direct funding programmes** - including industrial policy and research and innovation programmes - **and interventions from the European Investment Bank**.

It is further paramount that funding is available across all EU regions and tailored to specific conditions and infrastructure gaps of each territory. When it comes to structural funding in particular, inappropriate financing of oversized (for the context) infrastructures which create disproportionate future economic liabilities should be avoided.

12. Keeping the resources deriving from water management in the water cycle

Resources generated by the water management cycle should be reinvested to fund water-related activities instead of being redirected to other sectors, public or private, which are not connected to sustainable water management. Avoiding the drainage of water resources, in particular considering the important financial needs of the sector, is essential to allow water protection interventions to be financed without impacting affordability or creating market distortions.

Overall, the review of the Water Framework Directive has provided insight into the application of this important piece of water legislation in the EU, and helped to put into perspective the difficulties and possible solutions to effectively protect and preserve our limited water resources in the face of current and future challenges.

It is crucial that any future EU action is **just** for all, and in particular protective of households most at risk of bearing a higher portion of water service sustainability, and supports the full enforcement of **pollution prevention** as the most cost and energy efficient approach.

Considering that **ambition and political will** are recognised as critical to achieve objectives, they need to be encouraged. In addition, tailored instruments to support Members States and their authorities in their decision-making range from **economic assessment to guidelines and funding**.

Aqua Publica Europea's members remain committed to doing their part, which needs to be complemented with dialogue with, and efforts from, all actors, including **other sectors** and **different levels of government** for a truly sustainable future.

Aqua Publica Europea (APE) is the European Association of Public Water Operators. It unites publicly owned water and sanitation services and other stakeholders working to promote public water management at both European and international level. APE is an operator-led association that looks for efficient solutions that serve the public rather than corporate interests.