



European Parliament Forum on Recreational Fisheries and Aquatic Environment

REPORT

The Water Framework Directive Fitness Check and the protection of EU waters

Chaired by MEP Ricardo Serrão Santos

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European Parliament

MEP Ricardo Serrão Santos (S&D, Portugal) introduced the conference by saying that the Water Framework Directive (WFD) is the most comprehensive instrument of EU water policy and one of the most important pieces of the EU environmental legislation. The Directive aims to achieve good status of Europe's freshwater bodies by 2027 at the latest. It requires the protection of European rivers, streams, lakes, wetlands, transitional and coastal water. He stressed that, with its ambitious and innovative approach to water management, the WFD contributed to improve the status of European waters. However, the vast majority of Europe's water bodies still fail to meet the European Union's minimum target for 'good status', according to a report published by the European Environment Agency last July. In this context, the 2027 target could not be met for many water bodies. Member states have to do a bigger effort and to establish a strong cooperation.

He also explained that the European Commission is currently carrying out an evaluation, or "Fitness Check", of the WFD to assess whether the current water policy framework is adequate and fit for purpose to address the challenges faced by European freshwaters and to look at the future of the WFD for the time beyond 2027. In the context of this Fitness Check, there is a need to analyse the strengths and shortcomings of the WFD implementation. He concluded that the present event aims to gather policy-makers, scientists and stakeholders, to share their perspectives on the current state of the implementation and their vision for the future of the Directive. Water is not only an essential life commodity; it is also the ultimate ground for the security of healthy ecosystems and biodiversity. *"Water is life. Healthy water is healthy life"*.

Veronica Manfredi, Director, DG Environment, European Commission said that 2018 has been a wakeup call for policy and decision makers. The 2018 Intergovernmental Panel on Climate Change (IPCC) report has been a very strong call to step up efforts to reach Paris agreement targets. According to the report, the depletion of resources - water being first in the list - is a reality that is going to happen unless a proper action is taken. She stressed that the EU should continue to keep a very close eye on the topic of water quality but also on water quantity. In the 2018 report issued by the World Economic Forum, water scarcity has been ranked among the top three risks that business face worldwide.



The European Commission is involved in a *stock taking exercise*, the Fitness check, that look at how well the regulatory framework is delivering. In doing so the Commission is supported by the European Environmental Agency (EEA) which also issued a report providing a detailed overview of the state of water. She commented that the EEA report shows that there are few persistent chemical pollutants, such as mercury, that have a very large impact on the status of water. As for mercury, the EU has subscribed to the Minamata Convention on Mercury which is banning the use mercury on a very large number of products.

Looking at Europe as a whole, the main pressures affecting waters as of today are, on the one hand, some diffuse sources of pollution - and prominently agriculture and transporting infrastructure – and, on the other hand, some point sources of pollution - notably certain industrial emissions and some sources of energy production. Eventually, this is combined with the practice of over abstraction of water and hydro morphological changes imposed on rivers and lakes. She said that in 2019 the level of understanding of the typologies of persisting pollutants is more accurate than in 2015. The goal of the Commission is to come up towards the end of this year, with a report full with evidence, which has been collected also through public consultations and targeted consultations with key stakeholders, enabling the next college to have a clear understanding on the next steps needed. She also mentioned other types of pollutants such as microplastics and pharmaceuticals, which are really difficult to get rid of.

The Commission witnessed progress in the implementation of the WFD since in all Member States there are nowadays better tools to monitor the situation on the ground and to report. In particular, Member States report through an electronic database, the WISE WFD Database. The Commission also sees that public participation in the development of the River Based Management Plans (RBMPs) has improved, but not in a similar manner everywhere; hence, she recommended to secure a more transparent process and a better involvement of civil society. The Commission also recommends that more work is done at Member States level to strengthen the links between the identification of pressures and the type of measures to be put forward in the RBMPs. As for financing, she noted that it remains a problem in Member States; in this regard, the way to secure the financing is not well developed although there are EU instruments that can provide appropriate co-financing. More needs to be done in her views when it comes to implementing the principle of *good economic cost recovery*, and of *the polluter pays* principle. She remarked a large use of the exemptions which are allowed under the WFD provided that these do not harm the achievement of the ultimate goal. She said that concessions need to be better argued and justified.

During the Fitness check, the Commission is taking a holistic approach as the WFD is a cross-cutting piece of law; in this regard, one of the parameters to be assessed is the WFD's coherence with other pieces of EU legislation. She argued that the transition of key sectors - such as farming – towards a more sustainable way is vital but it needs to be done in a socially fair manner.

She concluded that the problem of water quality and quantity will remain high on the Commission political agenda and that the WFD is a source of inspiration for other international partners from African and Latin American countries to go towards a more efficiency way of managing water. The EU



is a leader in this area, the ingredients that are so far still missing are focus, vision for what the EU really wants and strong political will.

Professor Laurence Carvalho - NERC Centre for Ecology & Hydrology (CEH) presented an analysis on the future development needs of the Water Framework Directive. At the end of 2017, CEH organised - in the framework of the MARS project - a 3-day e-Conference on the future of the WFD which focused on three different aspects of the WFD implementation: monitoring and assessment systems, programmes of measures and the policy mix. On this occasion, 21 invited expert speakers and panellists gave their perspective, 250 people attended. In the post conference, over 100 people answered a survey that contributed to the present analysis.

This analysis showed a wide support to the WFD as it puts ecosystem health at the centre of objectives and provides a comparable and consistent assessment across Europe. Prof. Carvalho also highlighted the 2018 EEA report's analysis of WFD monitoring which shows that only 40% of surface waters are in good ecological status and that there has been limited change in status between 1st and 2nd River Basin Management Plans.

He highlighted that one of the big issues in terms of whether the WFD results reflect the real status of EU water, is the *One-Out-All-Out* principle for which the overall status of water is based on the lowest class of some of the component elements used to measure the quality. He explained that this principle could lead to over precautionary status assessment if uncertainties in the different biological assessment metrics are compounded. However, there is a strong support to keep this principle as it reflects the many pressures affecting EU waters and gives a holistic view of the impacts on water. Another issue that emerged was that the assessment results do not explicitly help identify the cause of degradation. This is because the individual biological elements assessed are all impacted by other pressures and they are not strictly responsive to a single pressure. In this regard, he said that the extensive monitoring data could be used in a more diagnostic way to identify the cause of pressure. These diagnostic tools were developed in the MARS project to support decision making and feed into water management measures. He highlighted there is still scope for improving WFD monitoring network design, especially to incorporate landscape "experiments" to assess the effectiveness of management measures: monitoring control vs intervention sites.

There was strong support for the integrative, participatory river basin management framework of the Directive. He then mentioned that there have been some successes in managing and reducing point source pollution e.g. Nerboi estuary fishery. However, it is clear that the basic and supplementary measures remain insufficient to deliver progress. Challenges remain especially for tackling sources of diffuse pollution and also point sources, such as direct sewage discharges, which are associated with an increasing frequency of storm events. Moreover, he observed that there have been delays in implementation across the EU either because of resourcing or because of difficulties in negotiating measures at the catchment level. Many measures focused around the edges of water-bodies and fields and not taking a more holistic approach.



He recommended greater implementation across the river basins and to incorporate an ecosystem approach in the future WFD in order to highlight socio-economic benefits of having water in good status and to strengthen societal support. He also recommended to set up mechanisms to improve cooperation between stakeholders, upstream and downstream (polluters & beneficiaries).

In terms of policy integration, the WFD has managed to integrate previous water policies as well as water-biodiversity policies quite effectively. However, integration between water quantity policy (Floods Directive) and the more water quality focused WFD needs strengthening and conflicting objectives remain with other sector policies e.g. the Common Agricultural Policy (CAP). He stressed the importance to come up with new approaches to go further with policy integration, by targeting water, energy, food and health policies. *Reciprocity* of targets and new concepts such as *sustainable intensification* in agriculture need to be embraced and co-developed.

He pointed out also that the connectivity and barrier removal are not always a good thing and it is important to see the bigger picture in the River Basins on sustainable water use and the benefit we get both upstream and downstream from EU waters: for instance, barrier removal or construction of fish passes could also negatively impact fish health and the quality of water because of the presence of invasive species and fish parasites downstream that could be encouraged to spread.

In conclusion he said that it is important to maintain the momentum of the WFD, which is an impressive piece of legislation that has greatly improved our understanding of water quality and ecological health across Europe; however, it has to be acknowledged the time and resources needed to negotiate between relevant policies and the need to implement sufficient measures to see the improvements. Because of this acknowledgement, there would be a need to consider temporary less stringent objectives for beyond 2027.

Mark Owen - EAA and the Living Rivers Europe coalition, commented that there is no massive improvement from the first to the second cycle of RBMPs and that the progress on the ground is not enough. He then declared *“the WFD is super, we like it, we do not want it changed. What we want to do is for it to be implemented by the Member States.”*

He explained that the Living Rivers Europe coalition successfully engaged citizens to take part in the consultation through the campaign *Protect water*. He restated that the WFD itself is innovative; is holistic in the sense that it looks also at issues around water. He argued that the WFD is also flexible in the sense that there are exemptions available; in this regard, however, Member States have been too eager to look at those exemptions and, in many cases, have not applied them correctly. He welcomed the fact that the Commission referred Spain to the European Court of Justice (ECJ) over illegal abstraction in one river valley where the Spanish government had proved negligent about taking actions required by the WFD. He also said that the WFD does look at cost-benefit analysis as well: however, Member States don't look at that properly, particularly they don't properly apply the *full cost recovery principle*.



The WFD allows innovation and good practices: through the Strategic Coordination Group for the WFD and Floods Directives a number of guidance and documents have been issued to Member States. And all the actions and measures to be taken can be done without amending the WFD.

As for the *One-Out-All-Out principle*, he observed that the Member States miss the point of it and that it is important to have the entire context working together for the aquatic ecosystem to be healthy. As for funding, he recognised that some Member States are in terrible financial situations. There are instruments that Member States can use but he also mentioned that the European Court of Auditors assessed significant shortfalls in using these instruments for WFD implementation.

He concluded that there are good examples in some Member States, however, these cannot just remain isolated examples but they need to become common practice across Europe.

Bruno Guillaumie - Secretary General, European Mollusc Producers Association said that shellfish farming is made in transitional and coastal waters. The sector is not happy with the results achieved so far. He pointed out the factual decrease in the quality of water and an increase in mortality of the products, which are recognised as ecotoxicity tests. He argued that shellfish reflect exactly what the quality of the water is, even if it is not possible to identify the cause: these can be pesticides, endocrine disruptors, pharmaceutical or a mix of those. In his view, the provision in article 6 of the WFD has not been properly followed nor implemented by Member States. Member States have failed to protect the sector. He said that the sector is also participating at the Fitness check and it has produced recommendations to the Commission highlighting the failure of Member States in meeting the criteria to protect mollusc farming. He concluded that the added value of the WFD still exists and it has to be maintained, provided that coherence and better integration with other policies are ensured.

Nenad Peric - Policy Advisor, COPA-COGECA said that water is an essential production resource for agriculture, especially in the context of climate change. It is in the interest of the agriculture sector to have good water quality and to manage sustainably the resources. He argued that the sector is already doing its share to secure sustainable water management and as a result, the negative impact of agriculture was reduced over the years, as also assessed by the EEA report.

Regarding agriculture, he commented that the negative effects have been reduced through compliance with different directives, such as nitrate directive. In this context, he stressed the need to think about the costs that are related to the compliance with legislations: farmers are already sufficiently accounted for that.

COPA-COGECA is involved in the public consultation and prepared a position paper on this topic. He recommended that stakeholders' involvement should be improved and that the level of technical knowledge should be lowered in order to enable more participation. He pointed out that despite progress has been made for the large majority of EU water bodies, this is not reflected in the Directive's reporting system. For that reason, he recommended to adopt a more step-wise approach and more realistic targets. In his view, the WFD is properly addressing climate change but the impact of agriculture may, as a result, be overrated. Knowledge and innovation are a solution to have a better



and sustainable water management but the agricultural sector needs investments in order to breach the gap between technology and the farmers. The budget for CAP is being reduced and this needs also to be taken into consideration. Within the reform of CAP, there are discussions on how to better link CAP to WFD and to improve the agriculture performance.

Martin Schönberg - Advisor - Hydropower, Eurelectric said that Eurelectric has published a study on decarbonisation and electrification in 2018 aiming to decarbonise by the mid of the century. Electrification is the key to achieve this decarbonisation. Looking at the future deployment of different energy technologies there is a massive increase of renewables such as solar and wind. Looking at hydropower, there is not a huge increase in future, however, this does not mean that hydropower will have a less important role in the EU. Indeed, he argued that what is needed in the future is an enabler of storage and flexibility services and this is where hydropower fits in. Hydropower in the future will enable a better integration of solar and wind renewables

He said that the sector is fully committed to environmental legislation and targets. However, by implementing some kind of environmental measures due to the WFD, the need of flexibility of the system is and has already been reduced.

The sector is a bit reluctant to call for a reopening of the WFD, because a stable framework is needed for hydropower due to long planning horizons. Despite a lot of progress has been made from the sector to improve EU waters, progress is not visible everywhere yet, probably because of lack of scientific knowledge (delayed biological feedback processes) or delayed implementation. Article 1 of the WFD states that beside the protection of EU water, there is the commitment to sustainable use of waters. In his view, sustainability means looking at all pillars: social, climate, environment, economic, energy targets. Therefore, it is important to strike a balance between environment and energy targets and to call for better policy coherence and stakeholder involvements.

Katarina Mulec – Team member, Balkan River Defence stated that the Balkan River Defence is a group of kayakers that advocates for wild river conservation in the Balkans, by giving voices to small local communities affected. She said that 3 thousand dams are being planned in the region between Slovenia and Greece that will have a negative impact on rivers and environment. In her view the WFD is *a testament of common sense*. Therefore, it is important not to lower such ambitious standards.

Fulvia Cojocaru – Attaché, Romanian Permanent Representation said that the EU needs to achieve a balance between economy and the good management of natural resources. She argued that the reopening the Directive would go in the direction of more ambition, not in the other way around.

She stated that water management is a priority for the trio Presidency of the Council and that the future of the WFD is also a great issue of interest. In this regard, the Presidency will put the WFD on the agenda on the Ministerial Conference on “The state of implementation of the Water Directives: Difficulties and Good Practices” that will take place in Bucharest on 21-22 May 2019.



DEBATE

MEP Mark Demesmaeker (ECR, Belgium) recalled that recently also the Nature Directives underwent a fitness check and the conclusion was that the Directives were very good and fit for purpose. Today, we also heard that the Water Framework Directive is a very good piece of legislation but that implementation is lacking. Time and time again we hear that we have very good legislation, on paper. Mr Demesmaeker suggested that the Directive should be kept as it is while more work on implementation should be done. Derogations and exemptions should be used in a smart way. He also stated that more integration with the Common Agriculture Policy is needed as the agriculture sector is a key player that sometime feels attacked when a new legislation is discussed. In his views, it is important to have the agriculture sector on board and to provide incentives.

Frederico Cardigos – Representation Office of the Autonomous Region of the Azores in Brussels underlined that the standards of the Water Framework Directive are used also in other countries such as Turkey because it is recognised as a good piece of legislation. He also asked the European Commission to keep in mind the interactions between the Water Framework Directive and the Marine Strategy Framework Directive during the fitness check.

Anne-Claire Eglie-Richters – EDF raised the point of interpretation and, in particular, the way the Directive is interpreted by the European Court of Justice. According to the Weser case, if a project impacts only one quality element of the water body, the project is not allowed any longer and it must go through the derogation process. All industrial activities are going to be impacted by this case and she invited the Commission to look at the coherence between energy, climate and water policies.

Veronica Manfredi, Director, DG Environment, European Commission said that it is indeed a strange paradox that such good objectives are enshrined in European law, but then implementation is lacking. She stated that maybe it is possible that environmental legislation as a whole is less equipped than other areas with a better enforcement framework. She suggested that this could be time to rethink the overall enforcement governance for environmental law.

MEP Ricardo Serrão Santos (S&D, Portugal) replied that, as a MEP, he found that there is a great opposition to use a Regulation to make a Directive, such as the Habitat Directive, more visible. He underlined that it is very difficult to put stronger references to Directives in Regulations. As proof of this, references are accepted in recitals but not often in articles.