

Small hydropower and WFD implementation



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WFD Timetable

Transposition into national law	Dec 2003
Analysis of characteristics, assessment of human impacts, economic analysis	Dec 2004
Monitoring programmes	Dec 2006
River basin management plans and programmes of measures	Dec 2009
Water pricing policies in place	Dec 2010
Measures operational at the latest	Dec 2012
Updated river basin management plans and programmes of measures	Dec 2015 (every 6 years)
Reporting in WISE	Mar 2016

Context

- Third implementation report: assessment of the Water Framework Directive (WFD) River Basin Management Plans (RBMPs) in 2012
- **Fourth implementation report: assessment of the WFD Programmes of Measures (PoM) and the Floods Directive preliminary flood risk assessment in 2015**
- **Consultation on draft second RBMPs, 1st semester 2015**
- **Adoption 2nd RBMPs by 22 December 2015**

Commission's assessment and recommendations Implementation reports - issues related to hydropower

- **Hydromorphological pressures** affect a large proportion of Europe's waters
- Hydropower – most common driver for interruption of **river continuity**
- Need to improve the **assessment methods**

Commission's implementation reports

Existing hydropower plants

- WFD requires **ecological restoration** for existing infrastructure - important role of **refurbishment** of existing plants
- **Slow progress** in implementation of planned measures
- Unclear how measures will **contribute to restoration** to good status / potential
- **Review of permits** - new mitigation measures, such as ecological flow, fish passes

2015 Commission's implementation reports

Recommendations for new developments

- Need for further **integration** of energy policy (hydropower) with water planning
- All cases of application of article 4(7) exemptions should include an appropriate and transparent **justification** of compliance with all conditions
- **Strategic planning**
- **Policy recommendations**

Court ruling C-461/13

- *The WFD established quantified, binding environmental objectives for water bodies*

Full ruling: <http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=C-461/13&td=ALL>

Press release: <http://curia.europa.eu/jcms/upload/docs/application/pdf/2015-07/cp150074en.pdf>

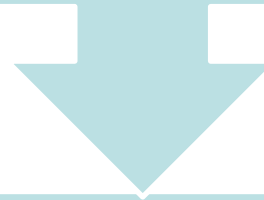
- Binding for planning...
- ... and binding for projects
- The ruling also clarifies the notion of deterioration of status

WFD binding objectives for projects Article 4(7) exemption

**Permitting authorities
bound to follow the
conditions of Article
4(7) when
considering whether
to grant permits for
concrete projects**

**National legal
frameworks should
allow for effective
application of this
exemption**

Assessment of the impact of the project on water body status



If Article 4(7) is deemed applicable:
all conditions should be met for the
permit to be granted

Assessment of impact of projects on status of water bodies

- **Assessment at quality element level (Annex V)**
- **Permanent impacts**
- **Irrespective of size, purpose, permitting authorities...**
- **Cumulative impacts**
- **Applicable to Heavily Modified Water Bodies**
- **Impacts on associated water bodies**

Deterioration of status at quality element level

Status class	Inv.	Flora	Fish	Phys Chem	RBSP	Hymo	...	Global
High	X Yes! ↓						...	
Good	X	No! ↓ X		X Yes! ↓		X	...	
Moderate			X Yes! ↓	X	X		...	X
Poor			X				...	X
Bad							...	

Note: this is a simplified representation for illustration purposes. The columns Flora, Phys Chem, Hymo and RBSP are made of several parameters that are assessed individually. According to the CIS guidance on classification, Phys Chem and RBSP are only relevant from high to moderate and hymo from high to good.

Legend: Inv.: macroinvertebrates; Flora: aquatic flora; Phys Chem: Physico Chemical parameters; Hymo: hydromorphological parameters; RBSP: river basin specific pollutants; Global: overall ecological status

**New hydromorphological
modifications**

**or new sustainable human
development activities**

**Deterioration of
ecological status**

or

**non-achievement of WFD
objectives**

Assessment of the impact of the project on water body status



If Article 4(7) is deemed applicable:
ALL conditions should be met for the
permit to be granted

New projects – article 4(7) WFD

- New modifications preventing the achievement of good ecological status and/or leading to deterioration are allowed under the following conditions:
 - a) All practicable mitigation measures are taken
 - b) The project and the reasons for it are reported in River Basin Management Plans and hence subject to public consultation
 - c) The benefits of the development outweigh the benefits of achieving the WFD objectives / the development is of overriding public interest
 - d) There are no significant better environmental options

- Completing an EIA does not guarantee the fulfilment of the WFD obligations, a specific assessment needs to be carried out
- Potential procedural synergies with EIA/SEA and Habitats Directive are significant and MS are encouraged to exploit them at national level (e.g. data collection, consultation processes)

