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COMMISSION STAFF WORKING DOCUMENT

The Fitness Check of EU Freshwater Policy

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1. INTRODUCTION

1.1. Fitness Checks

In 2010 the Commission announced the evolution of its approach to better regulation into a new agenda for smart regulation¹. Smart regulation is about the whole policy cycle - from the design of a piece of legislation, to implementation, enforcement, evaluation and revision. It is also a shared responsibility of the European institutions and of Member States. Furthermore, the views of those most affected by regulation have a key role to play in smart regulation. The Communication announced that four Fitness Checks would be carried out and this paper presents the conclusions of the Fitness Check for EU freshwater policy. The Commission Work Programme for 2010² set out the purpose of the Fitness Checks. *“To keep current regulation fit for purpose, the Commission will begin reviewing, from this year onwards, the entire body of legislation in selected policy fields through “fitness checks”. The purpose is to identify excessive burdens, overlaps, gaps, inconsistencies and/or obsolete measures which may have appeared over time”*.

The aim of this Commission Staff Working Document is to provide a comprehensive presentation of the evidence obtained on the Fitness Check for freshwater policy through analytical research and stakeholder consultation.

It should be clear that the analysis in this Commission Staff Working Document constitutes a first important step in the evaluation of EU freshwater policy. Additional steps include the assessment of 170 River Basin Management Plans prepared by the EU Member States under the Water Framework Directive; the review of the policy on water scarcity and drought; and several studies assessing the vulnerability of water resources to climate change and other man made pressures.³ These reports feed into further policy developments such as the Blueprint to Safeguard Europe's Water Resources and its impact assessment.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Smart Regulation in the European Union. COM(2010)543, 08.10.10.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Commission Work Programme 2010. COM(2010) 135, 31.03.10.

³ See http://ec.europa.eu/environment/water/blueprint/index_en.htm

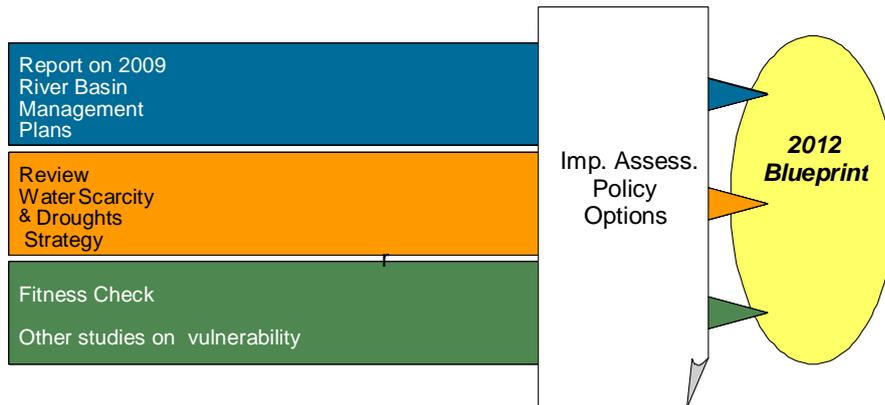


Figure 1: Overall process

A scoping study⁴ was commissioned to support the Fitness Check. Subsequently, stakeholder consultation has taken place through individual meetings, a public on-line questionnaire and a second workshop⁵. Annex I provides details of the methodology used to support the development of the Fitness Check.

1.2. EU Freshwater Problems

EU water policy faces several challenges, detailed in the State of Water Report⁶:

- **Water quality:** The information reported in the first (2009) River Basin Management Plans (RBMPs) indicates that over half of the surface water bodies in Europe do not meet the criteria for **good ecological status**. In addition to the measures established under older (Nitrates, Urban Waste Water, Industrial Emissions) Directives, further action will be necessary to meet the WFD objectives.
- **Water scarcity** is spreading in Europe. Large areas, particularly in the south of Europe, are affected by water scarcity, while competing uses are increasing demand across the continent. In a number of European regions, water scarcity presents an immediate and long-term threat to ecosystems and water supply to agriculture, industry and domestic users.
- The frequency and intensity of **floods and droughts** and their environmental and economic damage appear to have increased over the past thirty years. This can be attributed both to climate change and other anthropogenic pressures (i.e. land use changes). As well as endangering lives, catastrophic floods cause human tragedy and heavy economic losses. Since 1998, floods in Europe have caused some 7000

⁴ Deloitte & IEEP. 2011. Support to Fitness Check Water Policy. http://ec.europa.eu/environment/water/blueprint/pdf/safeguard_fitness_freshwater.pdf

⁵ See http://ec.europa.eu/environment/water/blueprint/fitness_en.htm

⁶ To be published by the EEA report together with the Blueprint. Drafts are available at: <http://forum.eionet.europa.eu/nrc-eionet-freshwater/library/public-section/2012-state-water-thematic-assessments/>

deaths, the displacement of about half a million people and an (insured) economic cost of at least €25 billion

- Other significant pressures on EU waters derive from the discharge of pollutants, hydro-morphological alterations and water abstraction, which are mainly due to demographic growth, land use and economic activity.

1.3. EU Freshwater Policies

The Fitness Check for EU freshwater policy examines the following policies and measures:

- The 2000 Water Framework Directive⁷
- The 2006 Groundwater Directive⁸
- The 2008 Directive on environmental quality standards in the field of water policy⁹
- The 1991 Nitrates Directive¹⁰
- The 1991 Urban Waste Water Treatment Directive¹¹
- The 2007 Floods Directive¹²
- The 2007 Communication on Water Scarcity and Droughts¹³
- The 2009 White Paper on climate adaptation¹⁴

Europe's waters are at risk from a wide range of pollutants from different sources, from over-abstraction and from physical changes to water courses. Only an integrated assessment and planning approach can provide a coherent way of tackling this multitude of pressures. The **Water Framework Directive** was adopted to provide a strategic framework for the protection of all water bodies, i.e. rivers, lakes, coastal waters and groundwater in a highly integrated manner. As the cornerstone of EU water policy, the Water Framework Directive

⁷ Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy. OJ L327, 22.12.2000.

⁸ Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration. OJ L372, 27.12.06.

⁹ Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council. OJ L348, 24.12.2008.

¹⁰ Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources. OJ L375, 31.12.91.

¹¹ Council Directive 91/271/EEC concerning urban waste-water treatment. OJ L135, 30.5.91.

¹² Directive 2007/60/EC of the European Parliament and of the Council on the assessment and management of flood risks. OJ L288, 6.11.2007.

¹³ Communication from the Commission to the Council and the European Parliament, Addressing the challenge of water scarcity and droughts in the European Union. COM(2007)414, 18.07.07.

¹⁴ Commission staff working document accompanying the White paper - Adapting to climate change: towards a European framework for action Climate Change and Water, Coasts and Marine Issues (COM(2009) 147 final). SEC(2009) 386, 01.04.09.

provides that all water bodies must meet the standard of “good status” by the end of 2015. The Water Framework Directive has already streamlined and simplified the existing body of EU legislation by repealing several EU water acts as from December 2013.

Water bodies are at particular risk from certain hazardous substances which can affect ecosystems and threaten human health. Therefore, under the Water Framework Directive, complementary Directives have been adopted on the protection of **Groundwater** against pollution and deterioration and on **Environmental Quality Standards** establishing the standards which constitute the chemical status criteria for the Water Framework Directive.

Untreated discharges from waste water treatment plants threaten aquatic ecosystems and human health by introducing nutrients and microbial contaminants to water and increasing the biological and chemical oxygen demand. The **Urban Waste Water Treatment Directive** aims to address this problem by requiring that wastewater generated by agglomerations is collected and made subject to secondary treatment before being discharged into the natural environment. More stringent treatment must be applied when wastewater is discharged into designated sensitive areas.

The **Nitrates Directive** deals with the relationship between agriculture and water quality. Nitrate pollution from agriculture is a major problem in some parts of Europe, causing eutrophication of freshwater ecosystems and increasing costs to water providers who have to undertake additional treatment of abstracted water to meet drinking water standards. In order to reduce and prevent water pollution caused by nitrate pollution originating from agricultural sources, Member States must monitor waters, designate so called nitrate vulnerable zones and then adopt and implement action programmes and codes of good agricultural practices with the aim of improving fertiliser management and preventing nitrate leaching towards waters. To assess the effectiveness of these actions, monitoring programmes must be put in place.

The **Floods Directive** requires Member States to assess flood risks and to establish flood risk management plans by 2015, thereby aiming to reduce flood risk to human health, economic activity, the environment and cultural heritage. The Commission presented a set of non-binding policy recommendations to increase water efficiency and water savings in its **Communication on water scarcity and droughts** in the EU.

The water environment is sensitive to changes in climate, including precipitation patterns (volume and distribution), temperature, patterns of water use, etc. Future pressures may not, therefore, be the same as those experienced today. The Commission's 2009 **White Paper on climate adaptation** highlights the need "to promote strategies which increase the resilience to climate change of health, property and the productive functions of land, inter alia by improving the management of water resources and ecosystems."

Clearly these policies adopted over time to address the range of different pressures on Europe's waters will interact with each other. Where anticipated, such interactions have usually been explicitly addressed as part of the design of the instruments. The Water Framework Directive provides the main policy framework for preserving and restoring the quality of European water bodies, laying down a common rule framework for all other water policies within an integrated planning approach. The Groundwater Directive and Environmental Quality Standards Directive are daughter Directives to the Water Framework Directive, providing additional quality objectives to be implemented within the Water

Framework Directive rule framework. The Urban Waste Water Treatment Directive and the Nitrates Directive are older Directives controlling specific pollution sources, whose measures are to be integrated into those of the Water Framework Directive, but are not altered by the Water Framework Directive. The Floods Directive is strongly linked to the Water Framework Directive implementation process, as flood risk management plans should be coordinated with River Basin Management Plans (RBMPs). Water Framework Directive implementation addresses some water scarcity and droughts issues raised by the Water Scarcity and Droughts Communication and White Paper on climate adaptation, such as encouraging integration of drought management plans into RBMPs. These relationships are presented in Figure 2.

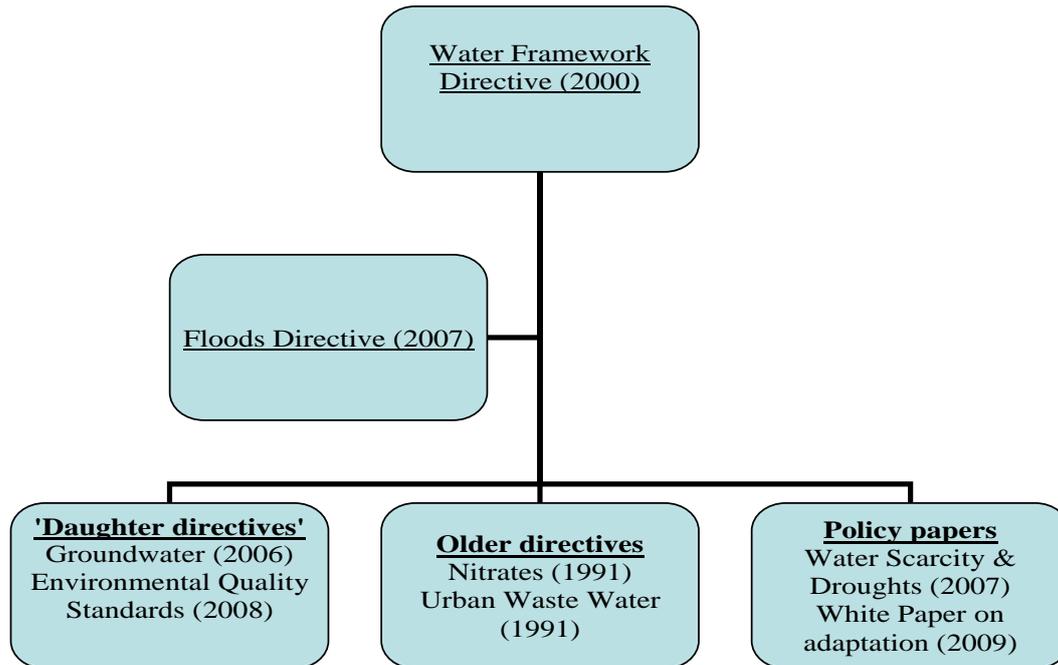


Figure 2: Water legislation and policies subject to the Fitness Check

It is particularly important to note the interaction and consequences of the timetables for implementation of the directives. Table 1 sets out the key implementation stages of the legislation addressed by the Fitness Check. It can be seen that the requirements of the Nitrates Directive and Urban Waste Water Treatment Directives were to be implemented before the adoption of River Basin Management Plans under the Water Framework Directive. Furthermore, objectives under the Groundwater Directive and Environmental Quality Standards Directive are to be achieved within the timeframe of the Water Framework Directive. However, the achievement of objectives of these latter directives and later implementation stages of the Floods Directive has yet to take place, limiting some of the analysis possible within this Fitness Check, such as the assessment of the effectiveness of these instruments.

Table 1. The timetables for the key implementation stages of the legislation included in the Fitness Check

Urban Waste Water Treatment Directive		Nitrates Directive		Water Framework Directive		Groundwater Directive		Floods Directive		Environmental Quality Standards Directive	
Adoption	1991	Adoption	1991	Adoption	2000	Adoption	2006	Adoption	2007	Adoption	2008
Transposition	1993	Transposition	1993	Transposition	2003	Transposition	2009	Transposition	2009	Transposition	2010
Identify sensitive areas	1993	Designation of nitrate vulnerable zones	1993	Characterisation and analysis of pressures, impacts and water uses	2004	Threshold values established	2008	Initial flood risk assessment	2011	Inventory of emissions	2009
Tertiary treatment in place	1998	Establish codes of practice for agriculture	1993	Monitoring programmes operational	2006	Objectives achieved (in RBMPs)	2015	Develop flood hazard and risk maps	2013	Objectives achieved (in RBMPs)	2015
Secondary treatment in place (large agglomerations)	2000	Action programmes established	1995	Publish River Basin Management Plans	2009			Produce flood risk management plans	2015		
Primary or secondary treatment in place (smaller agglomerations)	2005	Action programmes implemented	1999	Programmes of measures operational	2012						
		Revise action programmes and nitrate vulnerable zones at least every four years		Environmental objectives of first RBMP achieved	2015						
				End of 2 nd RBMP period	2021						
				End of 3 rd RBMP period	2027						

1.4. Structure of this document

This document sets out the results of the Fitness Check analysis structured according to the main themes of the Fitness Check:

- Relevance
- Effectiveness
- Efficiency
- Coherence

The document ends with overall conclusions resulting from the Fitness Check including consideration of how the issues raised will be addressed in further policy development.

2. RELEVANCE

This Fitness Check has looked at the relevance of EU water policy, concentrating on the following issues:

- Whether the key problems and concerns facing Europe's freshwaters are addressed by EU water policy?
- Are current instruments sufficient for the sustainable management of freshwater resources? For example, is the management of water demand and water availability well covered by existing EU legislation? Are there shortcomings to address?
- Is enough attention being given to the control of pollution at the source to reduce the reliance on end-of-pipe solutions, which may have higher costs for end-users and higher externalities?
- Whether the policy framework consists of the right instruments to address the issues for which it was designed?

2.1. Does the Policy Framework address the key problems?

The problems identified above (water quality, water scarcity, droughts and floods) continue to represent the biggest challenges in the freshwater policy area.

In recent decades, considerable success has been achieved in reducing the discharge of pollutants to Europe's waters, leading to water quality improvements. However, information reported in the first River Basin Management Plans (RBMPs) indicates that more than half of the surface water bodies in Europe are in less than good ecological status or potential, and will need additional measures to meet the WFD objective. The pressures reported to affect

most surface water bodies are **pollution from diffuse sources** causing nutrient enrichment and **hydromorphological pressures** altering habitats.¹⁵

At the same time, large areas, particularly in the south of Europe, are affected by **water scarcity**, while competing uses are increasing demand across Europe. Moreover, rising demands and the impacts of climate change are expected to increase the pressure on Europe's water resources, underlining the importance of increased efficiency and savings in water use. Scenario analysis performed in the context of ClimWatAdapt study¹⁶ show that, even with strong improvements in water efficiency in all sectors, water stress would remain a problem in numerous EU catchments, including in south, central and Western Europe.

In addition to water scarcity, Europe is also suffering from variations in precipitation regimes due to disruptions in the hydrologic cycle and land-use changes. This has increased the frequency and intensity of floods and droughts over the past thirty years and **freshwater's vulnerability** to their environmental and economic damage. Further socio-economic, land-use and climate changes are likely to exacerbate the situation.

2.2. The Scope of the Policy Framework

The Water Framework Directive's scope is, in principle, broad enough to address all the problems identified above which face Europe's freshwaters. A wide range of stakeholders, including Member State authorities, industry and environmental NGOs, have indicated that the body of EU water law is largely complete and relevant to the issues that need to be addressed.

The **Water Framework Directive** and its daughter Directives are integrating or progressively replacing other earlier Directives which focused on specific pollutants or objectives. The adoption of the Water Framework Directive aimed to include all significant surface and ground water bodies and to set objectives for the achievement of good status for those water bodies. The actions to be taken under the Water Framework Directive are aimed at managing *all* the pressures which may prevent the achievement of those objectives including diffuse and point sources or hydromorphological pressures, water scarcity and vulnerability. The Water Framework Directive is also flexible in the measures Member State can apply. Its "supplementary measures" are effectively a menu of a wide range of different types of policy instruments which Member States can choose from to make cost-effective choices to meet Water Framework Directive objectives.

There are concerns from academics, stakeholders and Member State authorities that the Water Framework Directive lacks clarity on some details and leaves a lot of room for diverging interpretation of action requirements, for example on the concept of water services in relation to cost recovery. In order to help overcome this problem, 26 guidance documents on various aspects of implementation have been developed within the framework of the Water Framework Directive Common Implementation Strategy (CIS), an open and participatory process involving a wide group of stakeholders from various economic sectors, NGOs, international organisations, Member States and the European Commission. A large majority of respondents to the public consultation considered that the CIS had fully or

¹⁵ Draft EEA report on Ecological Status, not yet published

¹⁶ http://circa.europa.eu/Public/irc/env/wfd/library?l=/framework_directive/climate_adaptation/climwatadapt_report/climwatadapt_summarypdf/_EN_1.0_&a=d

partially addressed the right issues and that the guidance produced had been useful in practical implementation of EU water policy. Respondents considered that the CIS process had helped to streamline implementation. However, on some issues (e.g. cost benefit analysis, objective setting) respondents considered further clarity is needed and that the usefulness of the guidance would have been greater if it had been produced earlier in the implementation timetable.

While the Directive is a framework which, by definition, can be further clarified and developed during implementation, the CIS process has greatly contributed to clarify its requirements and simplify the process. In future, further support is likely to be necessary to help identify the exact requirements of the Directive and any subsequent legislation.

The Water Framework Directive has been criticised by some academics for its focus on specific definitions of water status. It requires the achievement of good status and no further decline in status. However, the boundaries of each status category may be relatively broad, so the Directive would not necessarily prevent the deterioration of the biological or chemical character of water bodies as long as this does not change their status category. Because of this, the advance made by taking a holistic ecosystems approach to water objectives may still not be sufficient. In future, it may be necessary to revisit the definitions of good status in order to ensure that it is sufficiently ambitious to prevent further deterioration.

Greater consideration is now being given to the importance of protecting ecosystem services. The Water Framework Directive specifically includes certain ecosystem service provisions (on drinking water source protection and on other protected areas). However, it is true that its primary focus is on the state of the biological, chemical and hydromorphological character of water bodies, rather than on the services they provide (which would require a definition of such services). This focus is important in order to deliver important objectives for ecosystem health, such as enhancing Europe's biodiversity resource and contributing to the EU Biodiversity Strategy.

In order to ensure that the notion of good status under the Directive continues to meet its objective of ensuring the integrity of the aquatic ecosystems and their capacity to maintain their services, more focus should be given to these concepts, both within the framework of the CIS process and also via other policies so that they can be better reflected in the implementation on the ground.

Prior to adoption of the Water Framework Directive in 2000, EU water law focused on specific pressures or specific water objectives. The **Nitrates Directive and Urban Waste Water Treatment Directive**, respectively, address nitrogen pollution from agriculture and pollution from urban waste water discharges. As these pollution sources continue to be major threats to Europe's waters, the overall relevance of these Directives is well-founded. In particular, participants in the stakeholder workshop reported that the provisions of the Nitrates Directive remain adequate and support the development of sustainable agriculture.

With regard to the **Floods Directive**, while this instrument is currently in the early phases of implementation, the preliminary flood risk assessment and the flood risk and hazard mapping phase is expected to provide (by 2013) a major improvement in information available.

The 2007 **Communication on Water Scarcity and Drought** and the 2009 **White Paper on adaptation to climate change** are voluntary instruments but they identify important policy

options that Member States can implement to reduce water scarcity and droughts risks and to develop a comprehensive approach to adapt to climate change.

2.3. Gaps - Managing water demand and availability

While the Water Framework Directive requires action to address water availability and tackle **water demand**, there is concern that its quantitative objectives are not clear. The achievement of good status under the Directive consists of two components: ecological and chemical status for freshwaters, and chemical and quantitative status for groundwater. This has raised questions about the adequacy of the Directive in relation to quantitative aspects of freshwater management that do not seem to be directly addressed. However, the achievement of good ecological status for freshwaters presupposes the existence of a minimum ecological flow, i.e. the minimum quantity of water which is necessary for the aquatic ecosystems to continue to thrive. Therefore, whilst this may not be explicit in the Directive, qualitative and quantitative aspects are closely interconnected within the notion of good status.

Article 9 of the Directive requires the implementation of pricing policies that incentivise the efficient use of water, as well as cost-recovery, including environmental and resource costs for water services. The Directive requires that all water abstractions be controlled and subject to a permit. This is complemented by the **Communication on Water Scarcity and Droughts** which encourages "putting the right price tag on water", "allocating water more efficiently", "considering additional water supply infrastructures", and "fostering water efficient technologies and practices". The Communication argues in favour of a water hierarchy whereby alternative water supply options are only considered after all improvements in the efficiency on the demand side have been exploited.

In spite of this, stakeholder views and the preliminary results of the assessment of the RBMPs and of the policy on Water Scarcity and Droughts show that economic instruments focusing on efficiency in water supply are not yet widely used in Europe. An effective approach to better integrating water concerns into key sectoral policies is often missing, particularly with regard to increasing the efficiency of water use in agriculture and buildings. A prioritisation of competing water uses would be helpful, but is currently missing. The principle of cost-recovery remains widely and controversially discussed, as it has not been sufficiently defined (feedback from public consultation). Furthermore, authorities need to be more aware of the costs and benefits of measures (feedback from stakeholder workshop).

The preliminary results of the Review of the policy on water scarcity and droughts shows that limited progress has been achieved in implementing the policy instruments identified in the Commission Communication. This policy has to some extent been considered as "self-standing" by Member States and a stronger focus on quantity issues in the implementation of the Water Framework Directive has yet to emerge. The majority of measures applied by Member States target pressures, state and impacts and only very few measures target key drivers.

The Review highlights the large potential for water efficiency measures in all the main water using sectors (agriculture, industry, distribution networks, buildings and energy production) and stresses that water accounting and water efficiency targets would provide a stronger basis for effective and targeted water protection measures.

Therefore, despite formal requirements to manage water demand in the Water Framework Directive and further guidance in the Communication on Water Scarcity and Droughts, not enough use is made of economic incentives and other tools to encourage efficient water management and further action is likely to be necessary in the future in this regard.

Regarding **water availability**, the Review emphasises the need for a better integration between RBMPs and other economic and physical planning processes. Further efforts are required to develop and implement a coherent set of actions to address drought at the river basin scale within the planning process of the Water Framework Directive. Land use developments should be coherent with the water availability in the river basin districts, including its variability. In this respect, green infrastructures projects such as water retention measures (e.g. wetlands/flood plains restoration, sustainable drainage systems) can play a very positive role but the potential to boost their take up resides to a great extent in other EU policies such as the CAP and the Structural and Cohesion Funds. Moreover, alternative water supply options with low environmental impact such as water re-use need to be further relied upon. In this context, a particular issue that was emphasised by industry stakeholders in the public consultation was the lack of EU standards for re-use of waste water in irrigation. The concern expressed is that the lack of EU-level standards could inhibit free movement of agricultural produce in the single market and inhibit investment by the water industry.

2.4. Appropriateness of Pollution Control Approaches

The control of pollution has been a major focus for EU water policy since the 1970s. The **Urban Waste Water Treatment Directive** requires action to reduce pollution through end-of-pipe requirements. It is a complement to the legislation limiting pollution at source from agriculture (nitrates, pesticides) and industry and addresses pollution from households that would otherwise be discharged without treatment. The impressive improvement in the quality of EU bathing waters in the last decades is to a large extent due the implementation of the Directive¹⁷. While new technologies may make reliance on waste water treatment less expensive over time, it is generally cheaper to prevent pollution at source.

The Water Framework Directive does not prescribe any particular types of pollution control but it establishes the principle of non-deterioration of the quality of water bodies and the objective of good status. It encourages the Member States to use any supplementary measures that they consider effective, including control of pollution at source. Furthermore, the **Groundwater Directive** and **Environmental Quality Standards Directive** prescribe quality standards and replace earlier directives which relied on end-of-pipe requirements. Water policy has, therefore, shifted in emphasis from these end-of-pipe solutions to more flexible approaches to pollution control. However, the public consultation revealed that some Member State authorities have criticised this change, arguing that it might undermine the effectiveness of the newer instruments.

Finally, policy interventions outside the freshwater area can also play a role in strengthening the prevention of water pollution. For instance, legislation on the sustainable use of pesticides, industrial emissions, pharmaceuticals, and the REACH Regulation on control of

¹⁷ EEA 2012. EEA report - European bathing water quality in 2011. EEA Report No 3/2012.

chemical substances all have a role to play in this respect. The interaction between these instruments and EU water policy is further examined in section 5 on Coherence.

2.5. Appropriateness of Policy instruments

The policy instruments that have been used to address problems facing water in Europe have been Directives and non-binding Communications. The use of Directives allows for flexibility in Member State implementation such as choosing between options to meet environmental objectives.

The **Water Framework** and **Nitrates Directives** establish water quality objectives leaving Member States with ample margins to choose the most appropriate policies to achieve them. The scoping study demonstrates that this approach has been necessary because of the widely varying contexts for water across the EU, both in terms of the nature of water bodies and the pressures on them. The **Urban Waste Water Treatment Directive** contains more detailed obligations related to the collection and treatment of waste water, and other approaches are unlikely to have been successful. In particular, a voluntary approach would have not generated sufficient impetus for the considerable investments to take place. Stakeholders, including industry, NGOs and Member State authorities expressed support for the flexibility available in water Directives during the public consultation and stakeholder workshop, as long as this is not abused and implementation is achieved, so that more effective and lower cost options for implementation may be made.

However, reliance on Directives and non-binding instruments has also shown some downsides. The flexibility of the current framework makes it more difficult to ensure a level playing field among the Member States. The consistent implementation of EU water policy is essential in order to achieve the objective of good status in EU transboundary river basins, which cover 60% of EU territory, and in river basins which, although not transboundary, influence each other's hydrological cycle.

In relation to the Water Framework Directive, this has been partly alleviated by the development of guidance documents under the CIS and, for all three Directives, by the enforcement action conducted by the Commission. Since the Directives in question contain many legally binding deadlines for their phased implementation, the Commission has started a relatively high number of infringements with a view to enforce the respect of the deadlines, avoid further slippages and ultimately achieve the objectives of the legislation. While enforcement action at EU level is a relatively slow and time-consuming process, it has prompted considerable steps forward and the vast majority of cases have been resolved in the pre-litigation phase. Moreover, in parallel to enforcement action, the Commission has also facilitated the implementation of water legislation through other mechanisms outside EU water policy such as Cohesion Funds (in particular for the Urban Waste Water Treatment Directive) and the cross-compliance mechanism under the CAP, including the Nitrates and the old Groundwater Directives.

In spite of CIS guidance, Commission enforcement action, and availability, in some cases, of EU funds to complement Member State investment; the preliminary results of the assessment of the RBMPs show that the implementation of the Water Framework Directive varies considerably between Member States. In part, this can be explained by the fact that this was the first time that such comprehensive plans were developed throughout the continent and therefore a certain degree of learning by doing was unavoidable. However, the rather

significant differences in the implementation, including in terms of the level of ambition, the reliance on exemptions and the application of economic instruments begs the question of whether additional legislative action should be envisaged, such as via binding technical annexes to the Water Framework Directive. This is reinforced by the fact that the above mentioned Review of the policy on Water Scarcity and Droughts shows that limited progress has been achieved by the Member States in implementing the policy options it supported which are, in some cases, essential to achieve good water status. The slow progress in relation to water efficiency in buildings and agriculture or on alternative water supply sources such as water re-use also raises questions about the relevance of continued reliance on voluntary approaches.

2.6. Conclusions on Relevance

The current EU legal and policy framework remains relevant to addressing the key problems faced by European freshwaters. It is also broad and flexible enough for Member States to identify and implement the measures that best suit their local conditions. This view is also shared by the majority of stakeholders.

Within the current policy framework, there is a need to better implement existing instruments as well as to develop additional tools related to water demand management and water availability. In particular, there is a need to clarify the notions of ecological flow, in relation to the achievement of good status, and of cost-recovery/efficient water pricing under the Water Framework Directive. Measures related to water efficiency have not been sufficiently implemented particularly in the agriculture and building sectors and additional instruments to exploit this potential could be identified in relation to the development of water accounting and water efficiency targets e.g. as a tool to address the prioritisation of water uses. Moreover, an enhanced integration of quantitative and qualitative aspects of water management in plans and programmes is needed. To improve water availability, it is important to apply an ecosystem-based approach complementing or sometimes substituting traditional protection approaches (artificial storage, dykes, etc.) by Green Infrastructures also relying on the contribution of other EU policies.

EU legislation mixes pollution prevention at source with end-of-pipe solutions, but its emphasis has shifted to prevention, particularly since the adoption of the Water Framework Directive. Member States enjoy flexibility under the current legislative framework to further encourage pollution prevention. The potential to contribute to pollution prevention through other environmental policies and EU policies deserves closer scrutiny.

The combination of Directives and voluntary instruments is essential in order to reflect and respect the very significant differences in the aquatic environment in Member States. However, the need to ensure consistent implementation, particularly in transboundary river basins, calls for a possible further harmonisation of technical requirements under the Water Framework Directive. This question should be kept under review in particular in light of the assessment of the next cycle of RBMPs and the review clause of the Directive for 2019. Moreover, an assessment should be conducted to establish whether it remains appropriate to maintain the voluntary nature of the policy options advanced by the Communication on Water Scarcity and Droughts.

3. EFFECTIVENESS

3.1. Introduction

The question concerning effectiveness to be addressed in this Fitness Check is whether, notwithstanding the ongoing implementation of the existing regulatory instruments in the area of EU freshwater resources, the preliminary achievements are in line with the stated objectives. The objectives of each of the instruments are described in more detail above (section 1.2), but of particular interest is the Water Framework Directive, which introduced several new obligations, including:

- an expansion of water protection to all areas: surface and groundwater, transitional and coastal waters;
- a target of achieving "good" status for all waters by 2015;
- integrated management of water at the scale of river basins;
- the use of water pricing to create adequate incentives for the efficient use of water resources and
- closer involvement of citizens and stakeholders.

Effectiveness assessment is a requirement built in much EU water law. For example, the Nitrates Directive requires Member States not only to report on its implementation, but also to determine whether its application is effective in preventing and reducing nitrate concentrations in surface and ground waters as well as preventing and reducing eutrophication of fresh waters. The Nitrates Directive was one of the first environmental directives to require assessment of effectiveness and its use to design further action (revision of Nitrates Action Programmes each four years). Like the Nitrates Directive, the Water Framework Directive has effectiveness assessment embedded in its six-year planning cycle. River basin authorities are to assess the effectiveness of measures implemented in one River Basin Management Plan (RBMP) period in meeting objectives and use this information in developing objectives and measures for the subsequent planning period.

When water legislation sets specific requirements in terms of water status (e.g. reaching 'good' status by 2015 under the WFD), monitoring is essential to determine whether or not these objectives are met. In other cases, EU water law was developed to address particular water concerns, establish processes or require action on specific pressures, such as waste water or nitrates pollution but does not lay down legally binding objectives in terms of ecosystem status. Effectiveness assessment is therefore a two-fold process to analyse: firstly, the particular processes or actions taken and, secondly, whether these have resulted in the environmental changes for which they were originally designed.

However, of the policies included within the Fitness Check, only the Urban Waste Water Treatment Directive and Nitrates Directive have been in place long enough for their implementation to be expected to have delivered the outcomes for water for which they were designed. The first round of RBMPs developed under the Water Framework Directive is still in its early stages of practical implementation and it is far too soon for changes in water status to have occurred in response to the measures they contain. Other policies covered by the Fitness Check are also too recent to have already produced environmental outcomes (see the timetables of implementation in Table 1).

With regard to environmental changes, assessment of the effect of implementation is complex. Each piece of water legislation contributes to achieving water quality improvements, but changes in water quality may result from implementation of more than one directive or from another source altogether. For example, nitrogen pollution is targeted by both the Urban Waste Water Directive and the Nitrates Directive. The later measures are designed to operate in combination with the earlier ones to address hazardous substances, ecological objectives, etc., and so it is the cumulative effect of implementation of multiple measures which is expected to deliver results.

For more recent legislation, including the Groundwater Directive, Environmental Quality Standards Directive and the Floods Directive, only preliminary findings can be given in this Fitness Check.

3.2. Member State implementation

The effectiveness of EU water policy depends upon its practical implementation by the Member States. This requires correct transposition, correct interpretation of the legal requirements, application of practical designation and planning, technical and other requirements and ensuring that appropriate persons or legal entities comply with their legal obligations.

In order to support Member States in implementation, a wide range of guidance has been produced under the **Common Implementation Strategy** jointly with Member State experts and officials, which many stakeholders (Member State authorities, industry and environmental NGOs) consider to be a major success of the EU water policy process, according to the public consultation and stakeholder workshop conducted for the scoping study. This guidance has explored issues of interpretation and practical application, including coherence within EU water law and with other policies. Stakeholders largely view the production of this guidance as an important step in assisting local water managers in practical implementation of EU policy.

Therefore, stakeholders involved with implementing the Water Framework Directive on the ground are generally positive about the support and guidance that they have received so far, and this should continue to make a positive contribution to the successful design and implementation of RBMPs, although it is not possible to anticipate the likely impact.

For the two older Directives addressed by the Fitness Check, the **Nitrates Directive** and the **Urban Waste Water Treatment Directive**, a number of Member States have incurred a wide range of implementation failures. Problems have included the late or incomplete transposition of the Urban Waste Water Treatment Directive, including for example, three European Court of Justice (ECJ) judgments in 1995-96. With regard to late or incomplete designation of sensitive areas subject to the specific protection provisions of the Directive, there were three further judgments in 2003, 2004 and 2009. Finally, four Member States were condemned by the ECJ for their late application of technical measures such as installation of appropriate levels of waste water treatment by deadlines in 1998, 2000 and 2005 for urban areas of various sizes.

The 2011 Commission Summary on the Implementation of the Urban Waste Water Treatment Directive¹⁸ provides the most up to date information on Member States implementation. EU-15¹⁹ Member States have achieved a high level of compliance for collection and for secondary treatment, and have largely completed the designation of sensitive areas. Moreover, these Member States have substantially improved on more stringent treatment compared with the previous Implementation Summary. EU-12 Member States have improved their overall compliance both on collection and treatment (secondary and more stringent treatment).

Despite the progress made, there are a number of challenges ahead. Some EU-15 Member States still require big efforts to improve their compliance rates on collecting systems and/or treatment. Continuing efforts will be required in EU-12 Member States, as some of them have compliance rates below 50% for collection or treatment. A more up-to-date picture of the delays in EU-12 implementation will only be available in the next Summary. Although some deadlines in the Accession Treaties expired in 2010, the final deadlines are in 2015 (2018 for Romania). The size of this challenge was identified in the Accession negotiations, where the investment required by the EU-12 was estimated to be approximately €5 billion²⁰; however, implementation can be achieved if further efforts are made in the next financing period.

The past and on-going compliance actions are likely to ensure that the existing compliance gaps for the EU-15 will be closed over the coming years. For the EU-12, no infringements are ongoing but several initiatives to support the implementation, like workshops aimed to identify and address the main barriers for the implementation of EU legislation on waste water and drinking water and support activities to strengthen administrative capacities to absorb available EU co-financing. However, there are indications that, once the transitional periods expire, the implementation gap will still be significant and the possibility of serious delays similar to those experienced in the EU-15 could occur. Only if the available co-financing for the next financing period (2014-2020) is efficiently used, could implementation in the EU-12 be largely completed by 2020.

Regarding the Nitrates Directive, its implementation is still incomplete²¹, mainly in relation to insufficient designation of nitrate vulnerable zones and non-conformity of action programmes. Water quality data show that, in several regions, for both EU-15 and EU-12, further increases in designation are necessary according to the criteria set out in the Nitrates Directive. There are currently four open infringement cases. One such case relates to the designation of vulnerable zones and the content of action programmes, while the other three concern the action programmes. The quality of action programmes, while improving in the EU-15 compared with the previous reporting period, is still often driven by infringement procedures. All new Member States established action programmes, but several programmes

¹⁸ Commission Staff Working Paper. 6th Commission Summary on the Implementation of the Urban Waste Water Treatment Directive. SEC(2011)1561, 7.12.2011.

¹⁹ EU Member States as of 1 January 1995. EU-12 refers to the ten countries that joined the EU in 2004 and the further two in 2007.

²⁰ http://ec.europa.eu/environment/water/water-urbanwaste/implementation/factsfigures_en.htm

²¹ Report from the Commission to the Council and the European Parliament on implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources based on Member State reports for the period 2004 – 2007. SEC(2011)909, 13.7.2011.

need further improvement in order to attain full compliance with the requirements of the Nitrates Directive, particularly the provisions that relate to storage construction, balanced fertilisation and establishment of periods during which land application is banned.

As a result of these implementation failures by Member States, the practical application of these two Directives has been delayed in some areas. This has meant continued damage to the environment and unacceptable threats to human health for some locations²². However, the infringement cases in this area, the proactive cooperation with Member States (in particular EU-12), the introduction of cross-compliance in the CAP in 2003 (specifically for the Nitrates Directive) and the use of available EU co-financing have accelerated compliance from Member States over time, even if further delays are likely to be encountered. Political will, strengthening of administrative capacities and the efficient use of EU co-financing are necessary to overcome existing implementation gaps and delays as soon as possible.

Implementation of the **Water Framework Directive** is an on-going process. Delays by some Member States in the transposition of the Water Framework Directive and shortcomings in the implementation have resulted in a number of infringement procedures against the majority of Member States.

Initially, 26 Member States managed to identify river basin districts and designate competent authorities by 2004, as foreseen. Overall, 110 river basin districts were identified across the EU27, of which 40 are international.

The characterisation of river basins due by 2004 (including analysis of pressures, impacts and economic analysis) proved to be a challenge for many Member States. The quality of the information provided and the level of detail varied considerably. The economic analysis reports in particular appeared to be incomplete and relatively weak for most Member States.

Most Member States managed to establish monitoring networks for both surface and ground water by 2006 as expected, though there were still gaps at that time in some river basin districts or for some water categories.

Member States were required to publish RBMPs by 22 December 2009 and to report these plans to the Commission by 22 March 2010. However, two years after this deadline, four Member States have still not finalised their RBMPs and three of them have been condemned by the Court of Justice for such failure. (Figure 3 shows the current level of progress in adopting RBMPs)

Many Member States have had difficulties meeting the reporting requirements of the Water Framework Directive²³. Delays and shortcomings in the various preliminary stages of implementation may have limited progress in delivering the environmental, social and economic benefits of enhanced protection of Europe's waters. The principal test of Member State action, however, is the quality and soundness of the programmes of measures in the

²² EEA 2005. Effectiveness of urban wastewater treatment policies in selected countries: an EEA pilot study and EEA 2010. Freshwater quality — SOER 2010 thematic assessment.

²³ See http://ec.europa.eu/environment/water/participation/map_mc/map.htm

RBMPs which are to become operational by the end of 2012. The RBMPs are currently being evaluated, and the results of this assessment should be available in November 2012.

Table 2 provides an overview of the steps involved and the achievements to date in the implementation of the Water Framework Directive.

Table 2			
Achievement of initial objectives of Water Framework Directive implementation			
Original Deadline	Issue	Achievement at time of original deadline	Achievement in June 2012
2003	Transposition in national legislation	Poor	Overall sufficient
2003	Identification of River Basin Districts and Authorities	Moderate	Overall sufficient
2004	Characterisation of river basins: pressures, impacts and economic analysis	Moderate	Moderate
2006	Establishment of monitoring network	Moderate	Overall sufficient
2006	Start public consultation (at the latest)	Moderate	Overall sufficient
2008	Present draft river basin management plan	Poor	N/A
2009	Finalise river basin management plan including programme of measures	Moderate	Moderate
2010	Introduce pricing policies	Difficult to assess but rather poor	Moderate

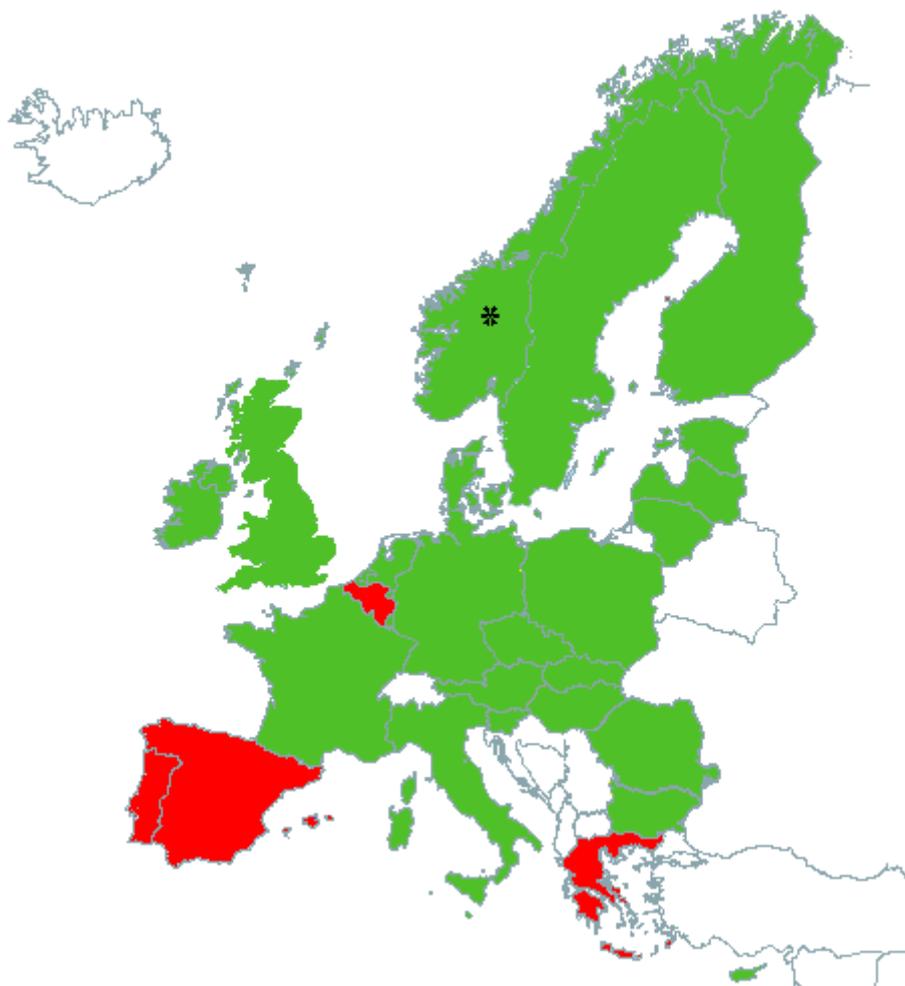


Figure 3: River Basin Management Plans 2009-15 - Information by country for the EU27 and EEA, September 2012 - Green: RBMP adopted; Red: RBMPs not adopted or partially adopted.

3.3. Effectiveness of EU policy on water quality

As explained above (section 3.1), because of the long-term nature of the impacts expected from EU water policy and the complex interaction between various instruments, this Fitness Check provides a more thorough assessment of the effectiveness of some of the older instruments but only a preliminary analysis of more recent measures such as the Water Framework Directive.

While the **Groundwater Directive** and **Environmental Quality Standards Directive**, which set the minimum standards for chemical status to be met by the Water Framework Directive, are still in the process of implementation, they replace earlier directives aimed at controlling levels of dangerous substances in water adopted in the mid-1970s to early 1980s. A review²⁴ by the European Environment Agency (EEA) in 2003 concluded that this

²⁴ Hazardous substances in the European marine environment – trends in metals and persistent organic pollutants, EEA Report 2/2003. See also DG ENV study on the implementation of Directive 76/464/EEC on aquatic pollution control of dangerous substances (1976-2002) at <http://ec.europa.eu/environment/water/pdf/report2.pdf>

legislation has contributed to the decline of certain targeted substances, including some metals and POPs, in aquatic environments. A 2011 review by the EEA²⁵ noted, however, that while these substances have been controlled, others, such as pharmaceuticals, remain of concern. The review also noted (see also the section on coherence in this document) the importance of other legislation such as the REACH Regulation and industrial emissions directives complementing EU water law in delivering controls on many substances.

Overall, the EEA concluded in 2011 that 'established legislation has produced clear positive outcomes', but that it is 'facing new challenges.' Information with respect to the chemical status of Europe's surface water bodies available within the RBMPs indicate, in general terms, that a variety of hazardous substances pose a threat to good chemical status in Europe. In addition, the EEA points to a number of emerging pollutants about which we only have an incomplete understanding, while some stakeholders also suggested expanding the list of priority substances covered by the Environmental Quality Standards Directive. Furthermore, the EEA notes that climate change is likely to add a 'further layer of complexity' to what is an already complicated situation.

Therefore, the picture is one of mixed progress. While good progress has been made on many of the specific pollutants covered by these Directives, further measures may be necessary in future to reflect changes in external factors or new knowledge about the potential harm of certain substances. Moreover, although regulation has led to documented reductions in the emissions of such substances to air and water (indeed, the presence of many is a legacy of past use), the persistence and ubiquity of some of them mean that they will continue to pose a risk to aquatic environments.

The **Urban Waste Water Treatment Directive** has resulted in major investments in waste water collection and treatment in many Member States, leading to important reductions of the discharges of untreated waste water.²⁶

Despite slow implementation of the **Nitrates Directive** (see section 3.2), progress has been made in preventing and reducing water pollution caused by nitrates from agricultural sources, with increasing designation of nitrate vulnerable zones and implementation of better action programmes, of which there are now more than 150 across the EU²⁷. The next set of four yearly reports from the Member States is expected by the end of 2012, and will include an analysis of trends for the EU-12 countries for the first time. The stakeholder workshop conducted in the context of the scoping study revealed that some Member State authorities, industry and environmental NGOs are concerned that new drivers (especially the rise of bioenergy crops) may put the water quality achievements of the Nitrates Directive at risk. Within the public consultation there were divergent views on whether the implementation of the directive has been successful in meeting the objectives on controlling nitrate pollution.

²⁵ EEA (2011). Hazardous substances in Europe's fresh and marine waters — An overview. Technical report No 8/2011.

²⁶ Commission Staff Working Paper. 6th Commission Summary on the Implementation of the Urban Waste Water Treatment Directive. SEC(2011)1561, 7.12.2011.

²⁷ Report from the Commission to the Council and the European Parliament. On implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources based on Member State reports for the period 2004 – 2007. SEC(2011)909, 13.7.2011.

This concern is also reflected in RBMPs, 90% of which list agriculture as a key driver having a significant impact on water quality and quantity.

Examining the **combined impact on water quality** that implementation of the Urban Waste Water Treatment and Nitrates Directives has had involves a complex assessment of the biophysical responses of water bodies to changing pressures. With regard to the presence of nutrients, this has been carried out by the European Environment Agency²⁸, which concluded that water quality in Europe has improved in response to the implementation of both Directives and may have improved more rapidly if delays in implementation had not occurred.

In the EU-15 since the 1990s there have been very significant reductions in nitrogen and phosphorus inputs to surface waters. As a result of the Nitrates Directive, the contribution of nitrogen loads from agriculture to surface waters is decreasing in many Member States. However, the relative contribution from agriculture remains high, as in most Member States agriculture is responsible for over 50% of the total nitrogen discharge to surface waters. In the EU-15 groundwater nitrate concentrations are stable or decreasing at about two thirds of monitoring stations, while for surface waters 70% of monitoring stations show stable or decreasing concentrations. However, it is thought that it will still take several years or even decades before full recovery of water quality can be achieved.

Average phosphate concentrations in European rivers have decreased markedly, halving between 1992 and 2008. This decrease in phosphorus reflects both improvement in wastewater treatment and lower phosphorus concentrations in detergents. Reductions of phosphates in detergents will continue with limitations for consumer laundry and automatic dishwasher detergents under a recently **adopted** Regulation²⁹. However there is a "lag time" in the environmental system, meaning that the delay between reduction of emissions and response in water quality can be long.

Overall, reductions in the levels of freshwater nutrients over the last two decades primarily reflect improvements in wastewater treatment, while emissions from agriculture, despite declining, continue to be a significant source. Progress is being made, but far slower than initially estimated. Scenario analysis indicates that continuing with "business as usual" until 2020 would actually increase nutrient emissions again. Potential significant areas which could generate improvements by 2020 include combined efforts on urban wastewater, reduction of phosphorus in detergents and in particular diffuse pollution sources in agriculture (see JRC FATE)³⁰.

The information reported in the first cycle of RBMPs, required under the **Water Framework Directive by 2009**, indicated that fewer than half of the surface water bodies in Europe were in "good" ecological status and that further work would be necessary if this target is to be

²⁸ EEA (2010). Nutrients in freshwater (CSI 020).

²⁹ Regulation (EU) No 259/2012 of the European Parliament and of the Council of 14 March 2012 amending the Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorus compounds in consumer laundry detergents and consumer automatic dishwasher detergents. OJ L94, 30.03.2012

³⁰ <http://fate.jrc.ec.europa.eu/>
(Report under <http://publications.jrc.ec.europa.eu/repository/handle/111111111/23483>)

achieved by 2015 as required by the Directive. Overall, to achieve the objectives of the directive, some stakeholders (some Member State authorities and environmental NGOs participating in the public consultation and stakeholder workshop) consider that the implementation of the Water Framework Directive needs to be reinforced, for example in terms of the economic analysis of water uses and cost-benefit analysis. However, there are also a number of more encouraging signs.

A large majority of respondents to the public consultation considered that the Water Framework Directive and Groundwater Directive are successful. Implementation of the Water Framework Directive has been identified as having produced positive organisational outcomes, in addition to the looked-for changes in water quality. It has stimulated improved analysis of the state of and pressures on Europe's waters and it has enhanced integrated planning, though more can be achieved.

Implementation of the Water Framework Directive has also stimulated improvements in river basin management and, in some cases, improved stakeholder involvement. The establishment and implementation of the monitoring programmes is generally considered a great achievement in overall terms, among others because for the first time a significant number of comparable pan-European datasets are being gathered to assess the ecological status of surface waters as a basis for restoring aquatic ecosystems. However, Member States have largely failed to volunteer data on quantitative water issues (See Table 2 above).

In relation to **water pricing**, one of the tools introduced by the WFD, an adequate contribution of users to the recovery of costs of water services has not yet been achieved in many Member States. Progress is slow even if this part of the Water Framework Directive was only envisaged to be implemented by the end of 2010. The situation is unfortunate as when a proper pricing structure is in place, water efficiency increases, and it is crucial that water prices are consumption-based, reflecting the true value of the water resource and sufficiently differentiating between areas of water under more or less stress. In particular, there are concerns over the fact that Member States do not generally require the agriculture sector to pay the true price for the water it uses. Agriculture is the biggest water-user not just in the EU but worldwide, with irrigation accounting for around 70% of all water abstraction. However, agricultural users currently pay far less than domestic or industrial users in many EU Member States. Even when water pricing exists for agricultural users, rates are so low as to provide little incentive for the efficient use of water.

Preliminary results of the on-going assessment of the first cycle of RBMPs (2009-2015) show insufficient ambition for reaching the environmental targets, with substantial use of exceptions, which are sometimes poorly justified or do not contain an explanation of when they would be lifted. Moreover, there is an apparent need for water managers to use the plans to set clearer targets and integrative quantitative and qualitative elements.

More promisingly, the RBMPs assessed so far suggest both a fall in the number of water bodies affected by agricultural nutrient pollution and plans for more extensive use of water pricing (49% of plans), more efficient water use in agriculture (45%) and greater re-use of treated waste water (50%).

The final RBMPs assessment provide further evidence of the extent of the effectiveness of implementation of the Water Framework Directive and it is expected that shortcomings seen

in the development of the first round of RBMPs will be addressed in the development of the second round (2015-2021).

In conclusion, the system for the establishment of RBMPs is widely acknowledged as having made a major contribution to the organisation of the process for the improvement of freshwater status. Although the preliminary results of the assessment of the first cycle of RBMPs show some notable shortcomings, this is the first time such a demanding and far-reaching exercise has been conducted. This marks a major step forward in freshwater quality management, including the development of intense co-operation at river basin level, both between the various competent authorities within individual Member States and at an international level where relevant. This should constitute a strong basis in the overall process, albeit one which identifies the large scale of the remaining challenges, calling into question the extent to which the deadlines of the directive (2015 to 2027) will be respected.

The effectiveness of the Communication on **Water Scarcity and Droughts** is difficult to assess, partly because, as a non-binding instrument, it was expected to foster awareness and take up of water efficiency measures but did not contain quantifiable objectives. Most respondents to the public consultation considered that the Communication had limited success. When actions identified have been taken, the influence of the Communication has remained unclear. The persistent problems that remain, not only regarding the impacts of scarcity and droughts, but also in integrating planning for these pressures within wider water management planning, suggest that further action is needed³¹.

The results of the consultation call into question the effectiveness and added value of the voluntary approach so far applied to the issues of water scarcity and droughts. It is widely thought that significant and persistent problems remain. The ongoing review of the policy on water scarcity and droughts will shed more light on the weaknesses and gaps in this area that would deserve consideration at EU level.

In relation to the **Floods Directive**, analyses of trends of past flood events suggest flood hazard may have increased in parts of Europe. Available evidence suggests high flows have been increasing in northern Europe, especially in western Britain and coastal Scandinavia. Regional patterns are, however, diverse, with many weak negative trends occurring in northern Europe as well, and a very mixed pattern in central Europe. Across most of the continent, however, urbanisation and the accumulation of assets in flood prone areas have led to increasing trends in the damages and economic consequences of floods.

Under the Floods Directive, Member States were only required to report to the Commission their preliminary flood risk assessments by March 2012. The development of flood risk and hazard maps and flood risk management plans are only due by, respectively, 2013 and 2015. It is therefore too early to discuss the effectiveness of the Directive.

There is evidence that floods have increasingly negative impacts in different parts of the EU. More information on the current situation and emerging risks will be available after analysis of Member States preliminary flood risk assessments especially with a view to identify the most cost-effective preventive measures.

³¹ See 2010 Follow up Report on http://ec.europa.eu/environment/water/quantity/eu_action.htm

3.4. Conclusions on Effectiveness

The initial assumption made on the attainment of the Water Framework Directive objectives was that by following the actions outlined therein, taking the necessary measures at Member State level, and implementing related water directives, EU water would reach "good status" by 2015 unless the exemptions provided under the Directive allow for a postponement to 2021, to 2027 or, in some cases, indefinitely. Based on the preliminary results of the assessment of the RBMPs, good status was achieved in about 43% of the EU water bodies at the time of reporting of the plans (2009-2010). The measures foreseen under the plans are expected to deliver additional improvements achieving good status in 53% of the cases by 2015. For the remaining 47% of water bodies, either Member States have applied exemptions available under the Directive or they have not provided information on the status of water which therefore is unknown. While the objective of the Directive is likely to be achieved in the slight majority of the water bodies, a thorough check of this very large use of exemptions is necessary to establish whether the legal requirements of the Directive have been fulfilled.

The number of exemptions granted means that good status coverage may not be complete for many years. Although there are positive signs in several areas, none of the legislation under consideration has achieved all the objectives it was expected to have achieved by this point. As stated earlier, some progress has been made under the Groundwater and Environmental Quality Standards directives. Whilst these directives have led to improvements in water quality, there are nonetheless indications that further action may be needed to address both listed substances and to include an expanding list of pollutants which are not presently covered by EU legislation. Equally, progress has been made under the Urban Waste Water Treatment and Nitrates Directives, although here improvements have clearly been substantially delayed by problems related to implementation and further controls may be needed to limit emissions from agriculture. Moreover, it is necessary to strengthen administrative capacities and to make more efficient use of EU co-financing as regards investment in urban wastewater infrastructure.

To achieve the final target, much reliance was also placed on the actions required under the Water Framework Directive. The delay in respecting some of its original deadlines has made it more difficult to achieve the overall 2015 target, even though progress is now improving, particularly thanks to the major contribution being made through RBMPs. One major achievement of the Water Framework Directive has been to focus the overall management of water across the EU to the level of river basins. This has also improved the involvement of citizens and stakeholders.

Implementation of much of the legislation under consideration has been delayed and in many instances infringements and ECJ rulings have been needed before Member States compliance, both in timing and quality, has improved and the necessary actions have been taken. Overall this policy area has a very high number of infringements. This is partly explained by the fact that the legislative body is constituted by directives which need transposition and phased implementation by pre-set binding deadlines. In some cases, the initial timetables may have been over-ambitious. In some others, especially when long implementation delays were available, Member States may have taken action too late, underestimating the magnitude and complexity of the problems to be overcome and the organisational changes required.

More attention clearly needs to be paid to the issue of water pricing across most Member States. The absence of an effective pricing structure is preventing the efficient cost recovery

of the provision of water services, including environmental costs, and an appropriate and fair allocation of water resources between users.

Nevertheless, the infrastructure and resources being deployed by Member States has improved and there is evidence, such as through the RBMPs, that a basis has been established for more consistent and timely progress in the future..

4. EFFICIENCY

4.1. Introduction

Assessing the efficiency of an intervention involves examining whether or not its effects were achieved with a reasonable use of resources. The efficiency of EU water policy encompasses a number of issues, but this Fitness Check focuses on the extent to which administrations cooperate and coordinate policy implementation, one of the innovative features introduced by the Water Framework Directive.

In addition, the Fitness Check addresses two specific questions concerning efficiency:

- Is availability of and access to funding a constraint in the implementation of the Directives, as well as of agreed policies on water scarcity and droughts?
- Are there regulatory gaps, inconsistencies³², overlaps or evidence of excessive administrative burdens?

4.2. Cooperation and coordination

EU water policy is extensive in its ambition to integrate analysis, planning and action at a river basin scale. In many cases, this requires cooperation between a number of different institutions responsible for the various issues to be addressed and the associated geographical areas. While this has proved possible in many cases and has contributed to successful implementation, it has also presented a challenge, precisely because many Member States have traditionally had a number of different institutions responsible for the various issues addressed by EU water policy. The diversity of administrative arrangements is such that individually assessing the efficiency of each river basin district would be outside the scope of the present document; this more detailed analysis will form part of the ongoing review of the second round of River Basin Management Plans. The Fitness Check, therefore, examines the efficiency of the Water Framework Directive in fostering cooperation.

Implementation of the Water Framework Directive has resulted in a wider degree of coordination, with greater transparency, better communication and use of joint-resources by administrative bodies, thereby reducing administrative burden, as the scoping study confirms. A vast majority of stakeholders consulted for the scoping study confirmed that implementation of the WFD has led to greater cooperation both within Member States (80% of respondents) and between them (95%). Positive outcomes mentioned by stakeholders

³² Potential regulatory gaps are discussed as part of the assessment of the **relevance** of EU water policy in section 2. Potential inconsistencies and overlaps concern the relationship between legislation and are discussed as part of the assessment of the **coherence** of EU water policy in section 5.

include better exchange of information, good practices and experience. Within Member States, there is evidence that the requirements of the WFD have encouraged administrative reorganisation at national, regional and local level to better align with the requirements of the Directive. In areas where this has not happened, there are some ongoing problems concerning the division of competencies, especially in Member States with a federal system. On the issue of transboundary cooperation, progress has been significant in some cases, such as the International Commission for the Protection of the Danube River which extends cooperation to third countries. Similar arrangements also exist for the Elbe, the Meuse, the Odra, the Rhine and the Scheldt. In the most advanced cases of international cooperation, joint RBMPs have been prepared, and the Rhine river basin district provides an example of a river basin-specific list of hazardous substances.

Ensuring governance systems that can deliver efficient water management is a necessary condition for implementing EU water policy. However, implementation of the Water Framework Directive has raised a number of questions about governance. Administrative boundaries within and between Member States frequently hinder the integrated water management at river basin level required by the Directive. The public consultation identified a range of factors that negatively affect implementation, including lack of political will, poor transposition, insufficient funding, insufficient capacity and tools, lack of policy integration and the absence of sufficient tools and knowledge to correctly interpret and implement the legal requirements. In the earliest phases of implementation, the most serious shortcomings were found in larger river basins which required international cooperation. Despite the encouraging signs of advanced cooperation in the larger river basins mentioned above, bilateral cooperation is often less effective, and there are ongoing difficulties when river basins cross into third countries. Other specific challenges reported by stakeholders include the active involvement of the public, which has not been as well addressed as it could have been. Stakeholders recognise the need for effective public participation, but communicating complex technical issues to the public remains a challenge.

Efficient implementation of EU water policy depends to a large extent on coordination between administrative authorities both within and between Member States. While the new approach of the Water Framework Directive initially proved challenging, there are signs that its ongoing implementation has contributed both to streamlining internal administrative arrangements and to ambitious international cooperation at the river basin level, including in some cases with third countries.

4.3. Funding

4.3.1. Access to funding

Many of the projects required to reach the objectives of EU water policy require extensive investment, and when the necessary funding is not available, successful implementation can be jeopardised. It is difficult to assess the exact availability of funding in each Member State, but stakeholders interviewed in the context of the scoping study described lack of available funding as a moderate or severe constraint to implementation of various aspects of EU water policy, including the Water Framework Directive (76%), the Nitrates Directive (74%) and the Urban Wastewater Treatment Directive (71%). Of the policy interventions examined in the Fitness Check, the perceived constraints were least significant in the area of water scarcity and droughts, although as there has not yet been legislative action in this area, it is possible respondents did not feel that funding was a relevant issue.

The majority of funding necessary to implement EU water policy needs to be generated within the Member States. According to a study³³ of 22 Member States, there is a significant financial gap in relation to future compliance with the Urban Waste Water Treatment Directive by the Member States, with the largest investments required amongst EU-12 countries. The provision of finance can be a significant challenge and the current economic crisis may make this more difficult in that competition for scarce financial resources is fiercer than ever.

Progress towards achieving total cost recovery from water users has so far been slow, but this represents a potential revenue stream to fund further investment. In cases where the 'polluter-pays' principle, enshrined in the Water Framework Directive, has been relied upon to reduce pollution at source, economic incentives have reduced the need for expensive 'end-of-pipe' treatment solutions. For Member States that have managed to fully comply with their obligations under the Urban Waste Water Treatment Directive, this has required costly investment in treatment infrastructure. To encourage further developments in this area, the Commission has proposed some ex ante conditions to be fulfilled in the future EU Cohesion policy for the financing of projects in the water sector. This includes the fulfilment of the requirements of Article 9 of the WFD on water pricing.

It is important for Member States to plan for future investment needs. Member States need to find the necessary funding, including from the private sector and from cost recovery of water services where appropriate, which may be supported by additional targeted investment from EU funds. The transition periods agreed with some Member States at accession for the **Urban Waste Water Treatment Directive** were long enough to allow for investment planning and implementation should proceed according to the expected timetable. The planning cycle of the **Water Framework Directive** also allows for early identification and planning of investment needs if it is implemented correctly.

In addition to funding from Member States, water policy objectives are supported by a range of EU funds. With regard to the Urban Waste Water Treatment Directive, the **Cohesion Fund and the European Regional development fund (ERDF) have proved** important sources of EU support, helping to finance the development of waste water collection and treatment infrastructure. In the current funding period (2007-13), the initially planned investments for infrastructure related to collection or treatment of waste water amount to around €4 billion. It is generally accepted that structural measures have contributed to an improvement in waste water treatment.³⁴ There are, however, a number of concerns, including a potential reliance on EU-level funding and a consequent reduction in domestic spending. In terms of implementation, a recent audit of several projects found that some water supply installations were not immediately operational because of gaps in the complementary infrastructure, and the Court of Auditors identified cost overruns, delays and limited efficiency in several of these projects.

³³ COWI 2010. Compliance Costs of the Urban Wastewater Treatment Directive. Final report.

³⁴ As in the Special Report No 3 of European Court of Auditors, 2009, which addressed the programme periods 1994-99 and 2000-06 for four Member States.

Other funds have included rural development funding under the **CAP** (e.g. creation of wetlands or construction of manure storage vessels). **LIFE+** funding for technology development (e.g. for improved water treatment or water efficiency) and **INTERREG** (e.g. supporting governance of transboundary river basins) has also been used to target water policy objectives. Research Framework funds have been important in improving the understanding of the status of, and pressures on, waters and future potential changes and challenges. The European Investment Bank is also an important source of loans for water infrastructure improvements³⁵. Across all sources of EU financial support, the extent to which funds can be successfully absorbed by Member States depends both on the ability of the Member State to provide match-funding and on the technical capacity to implement such projects.

Therefore, despite Member States having had ample time to make plans for the necessary funding, many stakeholders report access to funding as a constraint on the implementation of EU water policy, which often requires investment in new infrastructure. Although there is some scope for EU funds to contribute in targeted areas, it is clear that Member States will need to make the necessary investments if they are to meet their obligations.

4.3.2. *Compliance and administrative costs*

Compliance costs are all the costs of complying with regulation, with the exception of direct financial costs and long term structural consequences³⁶. Within this, there are a sub-set of costs, known as administrative costs, which are incurred in meeting legal obligations to provide information on their action or production, either to public authorities or to private parties. Administrative burdens are the costs incurred by businesses in collecting and providing information which they would not do in the absence of such legislation. In considering the costs resulting from EU water policy, it is useful to distinguish between these different categories.

The on-going assessment of the RBMPs shows that in many cases national administrations lack a consistent methodology for the assessment and monetarisation of the costs and associated benefits of implementation measures, supporting cost-effectiveness and the further reliance on the notion of payments for ecosystems services. Such a methodology could contribute to the identification of water efficient measures (before their implementation) and also to the implementation of the polluter pays principle. Many respondents to the public consultation were also unable to assess whether the benefits of EU freshwater policy outweighed costs. Although more respondents considered the costs to be higher than the benefits, some (10-23% depending on the Directive being assessed) felt the costs/benefits were fairly similar and a large proportion did not know (16-47% depending on the Directive). Again, a lack of methodologies and results to date was highlighted and guidelines were requested permitting comparable calculation of cost sharing or indicators on calculation of benefits.

³⁵ <http://eib.europa.eu/projects/loans/sectors/water,-sewerage.htm?lang=-en>

³⁶ COM(2007) 23: Communication on Action Programme for Reducing Administrative Burdens in the European Union

Given the limited data available, this Fitness Check has not been able to conduct a full analysis of the costs (and benefits) resulting from EU freshwater policy. It has however, attempted to examine whether certain costs (mainly administrative ones) are unnecessary, i.e. it is not the absolute level of the cost of a measure, but whether these costs are disproportionate to the objectives of that measure. The public consultation found mixed views on this issue. For example, some national administrations stated that costs outweighed the benefits in the development of the first River Basin Management Plans, but considered that the benefits would outweigh the costs in the longer-term. Industry respondents stated that the benefits to the water and sewerage industry of meeting the WFD are outweighed by the costs. They also commented that in some Member States the implementation of very strict measures could lead to the costs of the WFD exceeding the benefits.

The costs to public bodies of implementing EU water policy, and, in particular, the Water Framework Directive, have varied depending on the pre-existing administrative structures and processes in place. However, in many cases significant investment has been required to enhance institutional capacity and perform functions such as new monitoring regimes, including administrative reorganisation to improve coordination at river basin level. A majority of the administrative bodies interviewed in the scoping study reported either acceptable or low levels of additional administrative costs concerning additional reporting requirements (63%) or additional controls (62%). A greater degree of perceived burden surrounds the additional monitoring requirements, where 50% of respondents found the new administrative costs to be excessive. The work undertaken to produce a single reporting platform (WISE) has been important in helping to reduce reporting costs and adding value to the information provided. It is to be expected that many costs are "start-up" associated with the initial implementation of the Water Framework Directive and that development of the second round of RBMPs will be more cost-efficient for administrations. Moreover, benefits deriving from increased administrative coherence brought about by the Water Framework Directive are also likely to have a positive impact.

The WFD is progressively decreasing Member States' reporting efforts: by reducing the number of legislative instruments in the water field, reporting requirements have decreased by 20% in 2008 and will further decrease by 40% by 2013 in spite of the extension of scope of water policy (e.g. new Floods and Marine Strategy Framework Directives). Improved coherence of reporting processes, reduction of administrative burden and best use of data gathered within different reporting exercises are being taken forward within WISE (Water Information System for Europe), which is an example of electronic reporting and of effective co-operation between the Member States and EU institutions. However, a large proportion of respondents were unable to comment on whether the administrative burden is unnecessary as this will only become apparent as implementation of the Water Framework Directive and daughter directives proceeds. Overall, three-quarters of stakeholders contacted by the scoping study reported that the levels of administrative burden to industry and agriculture are acceptable given the ambitious scope of the WFD.

However, the issue has been raised of lack of coherence of the timetables of reporting obligations under the Water Framework Directive, Nitrates Directive and Urban Waste Water Treatment Directive because the latter two require reporting every four and two years respectively.

In conclusion, EU water policy has created many new obligations for both public administration and private entities. It is unclear at this stage whether the burden of financing all of the costs of meeting these obligations will constitute an obstacle to successful implementation and meeting policy objectives. Despite the extra costs involved, many stakeholders remain supportive given the expected benefits that the EU water policy should bring. However, there are also indications that finding the necessary financial resources will be difficult.

4.4. Conclusions on Efficiency

The efficient implementation of EU water policy requires both financial and administrative resources. There is evidence that the Water Framework Directive has increased coordination and cooperation between competent authorities both within and between Member States, improving the prospects for achieving the Directive's objectives, but there is a lack of a methodology and associated data, to assess the cost-effectiveness of measures. Whilst EU funding has been made available, it alone can not - and was never expected to - meet the costs of all the changes required. The WFD and associated legislation recognised that it takes time to organise funding and commission the necessary work. Member States must redouble their efforts to invest in infrastructure if water policy objectives are to be met. In general, most stakeholders are willing to try to find ways to bear the extra costs required by implementation given the level of benefits that are likely to accrue. However, the extent to which financial shortfalls will occur and affect the efficiency of the implementation of the main objective remains to be seen.

5. COHERENCE

5.1. Introduction

Coherence concerns how well different laws and policies work together. Ideally, the objectives of different laws and policies should complement each other and antagonistic interactions should be avoided. For EU law and policy, this includes not only the specific obligations contained in individual pieces of legislation, but also decisions regarding priorities for funding support.

Issues regarding coherence can arise from the administrative processes of Directives, such as planning, monitoring and reporting obligations, timetables for practical application of obligations on individuals and businesses and the interaction between these obligations and subsequent decision-making.

The questions about coherence addressed by this Fitness Check are:

- What is the degree of integration of the various instruments covered by the Fitness Check?
- What is the degree of integration of water policy across Member States and sectors, asking in particular whether there are substantial divergences between Member States in defining and implementing the key concepts of the Water Framework Directive?

- What is the degree of integration and coherence of EU water policy with EU environmental policies?
- What is the degree of integration and coherence of EU water policy with other sectoral policies?

5.2. Coherence within EU water policy

Achieving greater policy coherence within European Water Policy was a key reason for introducing the Water Framework Directive.

The Water Framework Directive has brought about a very significant streamlining and simplification of EU water legislation. It is progressively reducing (until 2013)³⁷ the number of water directives by 50%, from 18 to 9. The Directive has eliminated potential double requirements in the field of water legislation and considerably reduced the risk of contradiction between different instruments. In particular, through its Article 10 it has introduced the concept of the "combined approach" that connects the achievement of the objective of good status with the control of diffuse and point pollution sources under the Urban Waste Water, Nitrates, Environmental Quality Standards and Industrial Emissions Directives.

Furthermore, the objectives of the Groundwater Directive, Environmental Quality Standards Directive and Floods Directive have been aligned with those of the Water Framework Directive as have those of the revised Bathing Water Directive³⁸. In the case of the Floods Directive, which also provides for a 6 years planning cycle to develop Flood Risk Management Plans, there will be harmonisation (procedures and timing) with the RBMPs cycle under the Water Framework Directive as of 2015. Coherence with the Drinking Water Directive³⁹ is addressed through the protection of sources of drinking water under the Water Framework Directive Article 7. However, some industry and Member State authority stakeholders are concerned that further work is required to improve coherence around the objectives for drinking water, not only with the Water Framework Directive, but also with pesticides legislation (public consultation and stakeholder workshop). It should be noted that the issue of re-use of waste water for different purposes (such as irrigation or industrial uses) is not specifically addressed by EU water policy through EU wide re-use standards (public consultation and stakeholder workshop). Although relevant to the Urban Waste Water Treatment Directive, this is not an issue of coherence between water legislation, but rather a gap in the policy framework (see section on relevance).

In relation to the Communication on Water Scarcity and Droughts there is a high degree of integration with the Water Framework Directive. The water hierarchy proposed by the Communication and the policy options it identifies aim at reducing water stress i.e. ensuring that a minimum ecological flow is respected in all water bodies. This is also a precondition for the achievement of the Water Framework Directive objective of good (ecological) status.

³⁷ See Article 22 of the Water Framework Directive.

³⁸ Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC. OJ L 64, 4.3.2006.

³⁹ Council Directive 98/83/EC on the quality of water intended for human consumption. OJ L 330, 5.12.1998.

All EU policies have timetables for implementation and review. Some, such as the Water Framework Directive and Nitrates Directive, contain a cyclical process for planning, action, review and development of new plans or programmes. Within EU water law, revision or adoption of new law since adoption of the Water Framework Directive has sought to harmonise timetables and planning obligations. However, as noted above, discrepancies remain with older Directives.

5.3. Coherence in Member State interpretation and implementation

As noted in section 2 on relevance, EU water law is predominantly based on the use of directives. This allows Member States some flexibility in their implementation choices as long as the specific obligations and objectives of the directives are achieved. The basic management unit of the Water Framework Directive, the River Basin Management Plan, should address the unique aspects of individual river basins, so some divergence between Member States is to be expected. However, if such divergence results from interpretations that are not consistent with directives this would be problematic, insofar as it could lead to divergence between Member States can hamper co-operation between Member States in transboundary river basins (scoping study).

There has been some divergence in interpretation of the Urban Waste Water Treatment Directive and Nitrates Directive between the Member States. The directives allow for alternative choices by the Member States (e.g. whether to designate their entire territories or specific areas as Nitrate Vulnerable Zones; whether to deliver overall nutrient reductions or specific limits to individual treatment works within Sensitive Areas). However, rulings of the European Court of Justice have clarified these notions. Regarding the Nitrates Directive,⁴⁰ differences among Member States are identifiable in relation to the insufficient designation of nitrate vulnerable zones and the non-conformity of action programmes in some cases. The 2011 Commission Summary on the Implementation of the Urban Waste Water Treatment Directive⁴¹ shows how for this Directive the remaining implementation issues do not relate to questions of inconsistent interpretation of its requirements but rather to the need to ensure sufficient investments to reach compliance.

Therefore, for the Nitrates and Urban Waste water Treatment Directives, while important gaps in their implementation have been identified in some Member States, there is no major interpretational difference across the EU concerning their requirements.

Preliminary conclusions of the assessment of the first cycle RBMPs under the Water Framework Directive show significant progress on the information on the status of EU waters as well as on the uptake by the Member States of the Water Framework Directive's key concepts and terminology. However, this is counterbalanced by the presence of important gaps. For instance, the information reported to the Commission shows that around 15% of

⁴⁰ Report from the Commission to the Council and the European Parliament. On implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources based on Member State reports for the period 2004 – 2007. SEC(2011)909, 13.7.2011.

⁴¹ Commission Staff Working Paper. 6th Commission Summary on the Implementation of the Urban Waste Water Treatment Directive. SEC(2011)1561, 7.12.2011.

surface water bodies in the EU are in unknown ecological status and 40% in unknown chemical status.

The Water Framework Directive intercalibration exercise has compared Member States' methods for assessing ecological status to ensure that they are consistent with the Directive's definitions and to ensure comparability of results across Member States. This has promoted a large exchange of information that has allowed countries with less experience in the assessment of ecological status to benefit from others' knowledge. Despite considerable progress, some countries show important gaps in the development and application of assessment methods.

The assessment of chemical status presents a large proportion of water bodies with unknown status. Chemical monitoring is insufficient in many Member States, where not all priority substances are monitored or the number of water bodies where monitoring takes place is limited.

Other areas in which the Commission assessment of the RBMP has identified considerable differences among Member States include governance structures, quantitative aspects of water management and water pricing.

In relation to governance aspects, an adaptation of existing legal framework has only taken place in some Member States. The integration of all water uses in the RBMPs is only partial and, for instance, projects that entail new modification of water bodies (e.g. for navigation, hydropower or agriculture) are often not included in the plans.

Similarly, with respect to quantitative water management, shortcomings have been identified in the RBMPs in relation to the quality and availability of datasets; confusion between water scarcity and droughts; lack of indicators; lack of cost-effective analysis of measures.

Regarding water pricing and cost-recovery, there are very few Member States that have implemented a transparent recovery of environmental and resource costs and it is necessary to improve the methodology for their calculation. Moreover, the cost of water services should be recovered taking into account the polluter pays principle⁴². Cost recovery is implemented, to a greater or lesser extent, in households and industry. For agriculture, in many areas, water is charged only to a limited extent and metering of water consumption is not fully implemented.

5.4. Coherence with other EU environmental and related policies

There are numerous interactions between EU water policy and other environmental and related policies. These include process Directives (e.g. impact assessment, liability, etc.), Directives which set environmental objectives (e.g. biodiversity and marine policy), emissions controls (e.g. IPPC), product quality and restrictions on hazardous substances (e.g. REACH, pharmaceuticals and plant protection products) and climate policy. As a result a wide range of interactions occur. The legislation and policies examined in this section are those which have the most important interactions with EU water policy.

⁴² The Commission has started infringement procedures against 8 Member States that have implemented a narrow interpretation of water services limited to drinking water and water treatment.

The **Strategic Environmental Assessment**⁴³ (SEA) and **Environmental Impact Assessment**⁴⁴ (EIA) Directives are important in enabling decision makers to understand the potential environmental impact of plans, programmes and projects. They can assist in preventing unnecessary damage to water bodies and contribute to the objectives of water policies, most notably the Water Framework Directive and Floods Directive. These processes are fully synergistic with water policy. In particular, carrying out a SEA can be particularly helpful in reducing the environmental impacts of new plans and programmes that can lead to negative impacts on the aquatic environment. For instance, in the case of the development of renewable energy such as hydropower a SEA can help identifying the locations for hydropower plants which would interfere less with water status. Similarly, the EIA can help prevent or mitigate negative impacts on water status from a host of different activities. There is divergence of views among stakeholders on whether the SEA Directive should apply to RBMPs developed under the Water Framework Directive. The European Court of Justice has clarified that Nitrates Action Programmes adopted under the Nitrates Directive shall be subject to a SEA⁴⁵.

The **Habitats**⁴⁶ and **Birds**⁴⁷ Directives are cornerstones of EU biodiversity policy establishing the Natura 2000 network of protected areas and requirements for species and habitats protection. The Water Framework Directive requires that the objectives of these Directives be fully taken into account in river basin planning and that other water management decisions be fully consistent with objectives for protected areas so that effective water management can contribute to the objectives of EU biodiversity policy. The Water Framework Directive also requires the establishment of a register of all protected areas designated under EU law to protect freshwater or species and habitats dependent on water in each river basin districts and provide for such areas to be included in water monitoring programmes. The legal coherence is, therefore, clear, although the interaction on the ground needs interpreting on a case by case basis by the Member States. With a view to facilitating implementation on the ground, the interactions between these Directives have been analysed in detail by the Commission⁴⁸. The aim of widespread improvement in aquatic ecosystems under the Water Framework Directive contributes positively to the wider objectives of these Directives and to the EU Biodiversity Strategy⁴⁹ goal of halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as

⁴³ Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment. OJ L 197, 21.7.2001.

⁴⁴ Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. OJ L 175, 5.7.1985.

⁴⁵ Ruling ECJ of 17/06/2010 joint cases C-105/09 and C-110/09 - Terre wallonne ASBL contre Région wallonne et Inter-Environnement Wallonie ASBL contre Région wallonne

⁴⁶ Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. OJ L 206, 22.7.1992.

⁴⁷ Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds. OJ L20. 26.1.2010.

⁴⁸ Links between the Water Framework Directive (Water Framework Directive 2000/60/EC) and Nature Directives (Birds Directive 2009/147/EC and Habitats Directive 92/43/EEC). Frequently Asked Questions. European Commission. December 2011.

⁴⁹ Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. Our life insurance, our natural capital: an EU biodiversity strategy to 2020. COM(2011) 244. 3.5.2011.

feasible. Measures taken for the effective management and restoration of Natura 2000 sites, especially protected wetlands, will also contribute positively to water quality objectives.

The **IPPC Directive**⁵⁰ (to be replaced by the **Industrial Emissions Directive**⁵¹ (IED)) plays an important role in controlling pollutant discharges to water (so contributing to water policy objectives) and in enhancing the efficiency of water use in industrial activities. IPPC permits' emission limit values are to be based on the application of Best Available Techniques (BAT), but stricter emission limit values are required if these are necessary to meet an environmental quality standard in EU law, such as good status under the Water Framework Directive. These directives, therefore, are important tools in controlling pressures on water bodies and contributing to achieving EU water policy objectives. Overall the legal interaction between these Directives is clear, but analysis is needed at installation level to ensure that permit conditions are coherent with water policy objectives. Furthermore, all existing IPPC installations were to have been issued permits prior to the development of programmes of measures in the RBMPs, so that the practical influence of water policy objectives to date may have been limited and will need to improve during future permit reviews. Enforcement of permit conditions is critical to achieve water policy goals and the IED introduced a requirement for inspections not only to assess legal compliance but also to examine impacts of an installation on the surrounding environment in order to aid coherence with EU water policy.

Environmental policy for marine protection is driven by the **Marine Strategy Framework Directive**⁵² (MSFD). The MSFD overlaps in its geographic scope with the Water Framework Directive in that they both apply to coastal waters. However, the MSFD only applies in these waters in so far as it adds new requirements, which (in comparing MSFD descriptors of "good environmental status" with Water Framework Directive Annex V descriptors of "good ecological status") concern fisheries, underwater noise and litter. While this approach aids coherence, there remain challenges for Member States in integrating the planning and consultation requirements of Marine Strategies and RBMPs and it is not yet clear if the MSFD may require additional action on land regarding pressures on water which are not required to achieve Water Framework Directive requirements. Furthermore, the bases for determining exemptions under the MSFD and Water Framework Directive are similar but not the same and the consequences of this with regard to activities affected by both Directives remain unclear. Finally, in proposing the MSFD the Commission sought to harmonise its Marine Strategy six-year planning cycles with those of Water Framework Directive RBMPs. However, this degree of coherence was reduced during adoption with the six year MSFD planning cycle being one year earlier than the six year RBMP cycle in the Water Framework Directive.

⁵⁰ Directive 2008/1/EC of the European Parliament and of the Council concerning integrated pollution prevention and control. OJ L28, 29.1.2008.

⁵¹ Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control). OJ L 334, 17.12.2010.

⁵² Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive). OJ L 164, 25.6.2008.

The **REACH Regulation**⁵³ is an important instrument assessing and controlling the introduction of hazardous substances into the environment and, thereby, contributing to the objectives of EU water policy. It is to be implemented without prejudice to the Water Framework Directive which, in turn, in selecting priority substances (Annex X and Environmental Quality Standards Directive) should take account of the risk assessments performed under REACH. However, the potential synergies between the two bodies of law warrant further exploration to ensure that REACH adequately controls chemical substances which are dangerous for the water environment. For instance the listing of new priority substances in Annex X of the Water Framework Directive and under the Environmental Quality Standards Directive could prompt an examination of the need to regulate these substances under REACH. However, the currently very slow pace of the implementation of the REACH legislation would reduce the usefulness of such trigger.

Legislation controlling the authorisation and use of **plant protection products**⁵⁴ and **biocides**⁵⁵, and regarding the sustainable use of pesticides⁵⁶ contributes to meeting the objectives of EU water policy by controlling the introduction into the environment of specific groups of substances. The legislation includes obligations to take account of water policy (in some cases specifically Water Framework Directive) objectives, in the context of both authorisation and use. As far as the authorisation is concerned, there may be scope to further harmonise the data availability and thereby the scientific basis of the risk assessments. For example, substantial data are gathered for implementation of the plant protection products legislation which could provide an important resource for water managers. In addition, although the plant protection products legislation is generally well harmonised with the Groundwater Directive, the use of terminology could require further analysis to improve legal coherence.

With regard to **pharmaceuticals**, there is a difference between the environmental protection afforded under the legislation on human⁵⁷ and the legislation on veterinary⁵⁸ medicinal products. Both require assessment of environmental risk, as well as case-by-case consideration of the need for protective measures⁵⁹, but only in the case of veterinary

⁵³ Regulation (EC) No 1907/2006 of the European Parliament and of the Council 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 L396, 30.12.2006.

⁵⁴ Council Directive 91/414/EEC concerning the placing of plant protection products on the market, OJ L 230, 19.8.1991, repealed by Regulation (EC) No 1107/2009 of the European Parliament and of the Council, OJ L309, 24.11.2009.

⁵⁵ Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market, OJ L123, 24.4.1998.

⁵⁶ Directive 2009/128/EC of the European Parliament and of the Council establishing a framework for Community action to achieve the sustainable use of pesticides, OJ L309, 24.11.2009.

⁵⁷ Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use, OJ L311, 28.11.2001.

⁵⁸ Directive 2001/82/EC of the European Parliament and of the Council on the Community code relating to veterinary medicinal products, OJ L311, 28.11.2001.

⁵⁹ Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, OJ L136, 30.4.2004.

medicines can an authorisation be refused on environmental grounds. The pollution of the environment with pharmaceutical residues is an emerging environmental problem. The Commission is due to present a report on the scale of this problem, along with an assessment of whether amendments to EU legislation on medicinal products or other relevant EU legislation are required⁶⁰. On the basis of information already available, on 31 January 2012 the Commission proposed an amendment to the Environmental Quality Standards Directive and Water Framework Directive⁶¹ to add a further 15 substances to the list including three pharmaceuticals. If adopted, this amendment would reinforce the role of the Water Framework Directive in identifying risks to or via the aquatic environment and providing monitoring data to inform the development of appropriate measures.

The **Environmental Liability Directive**⁶² is an important measure to ensure the costs of damage to the environment are borne by those who cause them. This aids restoration and acts as a deterrent to further damage, thereby contributing to EU water policy objectives. Damage to water is included within its scope and is defined in Article 2 as "any damage that significantly adversely affects the ecological, chemical and/or quantitative status and/or ecological potential" as defined in the Water Framework Directive. Therefore, legal coherence has been ensured and the application of this notion has the potential to prevent water damage acting as a deterrent.

The **Environmental Crime Directive**⁶³ requires Member States to ensure criminal liability for specified offences including for much of the legislation covered by the water Fitness Check, thus potentially enhancing its effectiveness.

EU climate policy seeks to mitigate the degree of climate change by reducing greenhouse gas emissions and to assist Member States in adapting to the climatic changes that will occur. Key interactions with water policy regarding **mitigation** concern energy policy (hydropower, biofuels and renewable energy infrastructures), and transport (inland water navigation) policy and are addressed in the next section.

Mitigation also includes the protection of important carbon sinks, such as wetlands. The Water Framework Directive requires action to protect terrestrial ecosystems dependent on water, such as wetlands and, therefore, there is a strong synergy between these policies. Furthermore, mitigation measures to prevent the loss of high-carbon soils, such as through erosion, also contribute to the protection of water courses.

⁶⁰ See Recital 6 of Directive 2010/84/EU of the European Parliament and of the Council amending, as regards pharmacovigilance, Directive 2001/83/EC on the Community code relating to medicinal products for human use, OJ L348, 31.12.2010 and Recital 3 of Regulation (EU) No 1235/2010 of the European Parliament and of the Council amending, as regards pharmacovigilance of medicinal products for human use, Regulation (EC) No 726/2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency, and Regulation (EC) No 1394/2007 on advanced therapy medicinal products, OJ L348, 31/12/2010.

⁶¹ Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy. COM(2011) 876, 31.1.2012.

⁶² Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage. OJ L 143, 30.4.2004.

⁶³ Directive 2008/99/EC of the European Parliament and of the Council on the protection of the environment through criminal law. OJ L 328, 6.12.2008.

It is also important to note that implementation of the Nitrates Directive has brought and brings substantial benefits in terms of reductions of greenhouse gas emissions (N₂O) as well as in ammonia emissions (benefiting air policy objectives), thanks to measures concerning limitation and management of manure and fertilizers applications.

Climate adaptation requires an evaluation of existing policies to determine whether these are appropriate in a changed climate. As many climate change effects will be felt in the water environment (e.g. increase of water scarcity, droughts and floods), many adaptation measures are also water protection measures. This is the case for instance of water retention measures (Green Infrastructures) such as restoration of wetlands and floodplains. The Floods Directive explicitly requires future climate change to be considered by Member States as they assess future flood risk, not least because the investments for flood protection need to be appropriate in the long-term. The Water Framework Directive does not make explicit reference to climate change. Indeed, its approach to characterisation of water bodies uses a baseline ("high status") of a water body un-impacted by human activity. There is considerable debate about how far the Water Framework Directive determination of "good status" can accommodate new hydrology, new species, etc., arising from a changed climate. These issues and others concerning coherence between EU water policy and climate policy (both mitigation and adaptation) in Member States implementation have been explored by guidance produced under the Common Implementation Strategy (CIS) which will be kept under review with a view to better integrating climate change considerations into the second cycle of RBMPs (2015).

5.5. Coherence with other EU sectoral policies

Agriculture has been, and remains, a major pressure on Europe's waters. More than 90% of the RBMPs assessed by the Commission indicate that agriculture is a significant pressure in the basin, including diffuse or point source pollution by organic matter, nutrients, pesticides and hydromorphological impacts in spite of the fact that, previous reforms of the Common Agricultural Policy (CAP) have increased the importance of environmental protection within its overall policy framework.

The support provided to farmers under pillar I of the CAP is subject to the respect of certain conditions (cross-compliance), which include, among others, measures established under the Nitrates Directive and the (old) Ground Water Directive in addition to specific requirements such as the establishment of buffer strips along water courses and compliance with authorisation procedures for irrigation. Moreover, under pillar II of the CAP (rural development policy) farmers can be paid to take positive actions to protect water beyond a baseline constituted by what is required under *inter alia* environmental legislation. For example farmers can receive funding for introducing buffer strips alongside water bodies, which are wider than those required by Nitrates Action Programmes. Rural development policy can also support investments in water-saving technologies and water storage. However, the priorities which Member States and regions set in their Rural Development Plans and their choices regarding individual technical measures are not always adequately aligned with priorities arising from analysis within RBMPs. Moreover, water-related actions taken under the pillar II of the CAP are not always sufficient on their own to counteract those pressures exerted on water quantity and water quality by trends in intensification and specialisation, some of which have been supported by CAP direct payments.

The CAP is currently under revision. The Commission proposals – to be further spelled out in implementing rules and delegated acts - set out measures that will be helpful for water protection in pillar I (Ecological Focus Area, maintenance of permanent grassland, crop diversification) as well as maintaining the pillar II opportunities such as supporting water efficient irrigation. The Commission proposal also includes the possibility of including some Water Framework Directive requirements into cross compliance under certain conditions with a view to increasing coherence with agriculture policy objectives. In addition, for rural development policy, the Commission has proposed six Union priorities against which targets will be agreed within rural development programmes. Two priorities are directly relevant to water – i) restoring, preserving and enhancing ecosystems dependant on agriculture and forestry (with a focus area on improving water management), and ii) promoting resource efficiency (with a focus area on increasing efficiency in water use by agriculture). The proposal also introduces an ex-ante conditionality related to implementation of the Water Framework Directive.

A particular challenge in enhancing coherence noted by many stakeholders (Member State authorities, industry and environmental NGOs) is the need to enhance co-operation between agriculture ministries and water management authorities in Member States in order to help target more effective choices for measures that deliver water protection (public consultation and stakeholder workshop). This challenge has been and is also faced in the implementation of the Nitrates Directive. The CAP offers choices for Member State action and agriculture ministries need to be aware of the priorities in the environment to make the most effective decisions for CAP implementation.

EU **Regional Policy**, including actions supported via the Cohesion Fund and the ERDF, has been important in supporting implementation of investment-heavy water policy and, therefore, in helping to harmonise performance of water protection across the EU. However, Regional Funds can also support projects which threaten the environment. For that reason the conditions, impact assessments and guidelines for spending must ensure that EU funds are targeted at and fully coherent with EU environmental policy. It is, therefore, important that funds should be prioritized by the Member States with respect to the environmental benefits that the investment will deliver and that they are targeted to recover environmental damage. Member States are in particular responsible in this regard both in their planning and individual project selection, including the recovery of environmental damages caused by the improper implementation of EU policies and measures. The forthcoming round of new funding Regulations is expected to enhance coherence with environmental policy further as the Commission proposals introduces conditionalities related to the Water Framework Directive implementation for the financing of some projects and mention the possibility of funding Green Infrastructures such as water retention measures.

With regard to EU **energy** policy, the main source of interaction with water policy concerns renewable energy and the development of Trans European Networks for Energy (TEN E). As required by the Water Framework Directive, the latter should always envisage thorough case by case assessments of individual projects in order to reduce negative impacts on water bodies as much as possible.

The **Renewable Energy Directive**⁶⁴ (RED) sets targets for the use of renewable energy by Member States to be elaborated through National Renewable Energy Action Plans. Stakeholders noted that the implementation of renewable energy technology can have negative impacts on water bodies, for example from the damming of rivers for hydropower or the cultivation of crops for bioenergy production, associated with possible pollution run-off and water use for irrigation. Implementation of the RED is without prejudice to the obligations of EU water law. However, expansion of renewable energy could lead to over-use of exemptions in some Member States or river basins under the Water Framework Directive. When the development of bio-energy puts additional stress on aquatic ecosystems, water-related sustainability criteria should be considered. The wider use of SEA in relation to the development of national plans for specific sources of energy (e.g. hydropower), would be beneficial and so would the reliance on the guidance documents on hydropower developed under the Water Framework Directive CIS (workshop). This would also help ensuring coherence between RED targets and Programmes of Measures in the RBMPs. It is also important to note that policies promoting water efficiency can bring about energy savings as for example in households considerable amounts of energy consumption are due to the need to heat water.

In seeking to support more sustainable **transport** modes, there is increasing emphasis on water borne transport within EU transport policy. Practical decisions concerning water borne transport are the responsibility of Member States. However, Member State authorities and stakeholders have emphasised that the objectives of EU water policy should be better integrated into the decision making regarding transport so that more sustainable transport choices are not achieved at the expense of the quality and hydromorphology of Europe's water bodies (public consultation). This also applies to the implementation of the Commission proposal on Trans European Networks for Transport (TEN T) which requires that the existing legislation on environmental protection has to be taken into account.

In relation to **timetables for implementation and review**, policies derived from the multi-annual financial framework (such as the CAP and Regional Policy) are revised according to the periodicity of that framework. Where policies such as the CAP and Regional Policy are finalised prior to elaboration of policies such as the Water Framework Directive, integration of objectives is difficult as those policies are already agreed. However, other opportunities arise for improving coherence (such as happened during the CAP Health Check as a mid-term review of the CAP) (scoping study).

A further critical opportunity and challenge for policy integration and enhanced coherence is through planning. RBMPs are spatially based plans requiring a wide-ranging analysis of the character and activities within a river basin. They are also action plans for future activity. There is, therefore, a potential for a strong link with Member State spatial planning (scoping study). Plans/programmes are also required under other EU policies, such as for Natura 2000 sites, to implement Regional Policy, Rural Development Policy, etc. All such plans/programmes set objectives and define actions to be taken. Integration of these planning/programming activities should be enabled by the EU policies which require these

⁶⁴ Directive 2009/28/ EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC. OJ L140, 5.6.2009.

plans/programmes, but practical coherence of the analysis, objectives and actions in these plans/programmes has to be delivered at Member State level. This was well understood when all of these policies were developed and the integration of planning (particularly of a spatial character) is a matter of subsidiarity for Member States.

5.6. Conclusions on Coherence

In relation to EU water policy coherence, both major point sources of pollution and diffuse sources are now tackled in one common regulatory framework, and no major conflict of objectives or instruments was identified in the scoping study or through the stakeholder consultations. More attention should be devoted to the interaction between the pesticide legislation and drinking water. The timetable of the reporting cycles of some water directive would benefit from some more harmonisation.

Concerning Member States' implementation, the preliminary results of the assessment of the RBMPs of the Member States show significant differences in the implementation of the Water Framework Directive that hinder the full achievement of its objectives. These concern in particular the comparability of assessment methods for good status, the evaluation of chemical status, reliance on exemptions, quantitative aspects of water management and the application of water-pricing and cost-recovery.

The Fitness Check sought to answer the question whether the integration between water policies and other environmental policies are fully exploited. The above analysis and further evidence (scoping study) indicates that while some synergies have been taken into account (e.g. on biodiversity policy, SEA, EIA, liability), others have not been exploited sufficiently. There is scope for better consideration of water impacts in IPPC (IED) permits and for clarifying the interaction between some notions under the Marine Water Framework Directive and the Water Framework Directive. It would also be advisable to further harmonise the data availability and thereby the scientific basis of the risk assessments under the Water Framework Directive, the pesticide legislation and REACH. In relation to pharmaceuticals for humans, further consideration needs to be given to the role of environmental impact assessments in the approval procedure.

The delivery of water policy objectives is largely dependent on the integration with the policies discussed in the previous section. The Commission proposals for the CAP reform and regional policy hold the potential to further such integration but it is unclear at this stage to what extent they will be reflected in the finally agreed legislation.

Achieving integration is both a matter of the design of law at EU level and the practical expression of the implementation of that law at Member State level. For instance, more extensive reliance by the Member States on SEA/EIA in the development of their renewable energy policies would also facilitate policy integration especially with regard to impacts from hydropower and biofuels.

In this respect, the RBMPs should identify the synergies available between policies to help deliver objectives. However, the preliminary results of the Commission assessment of the RBMPs show a lack of references to new projects and programmes (e.g. on hydropower, navigation or agriculture) in most of the plans. This indicates a missed opportunity for the sustainable development of economic activities under a framework of real integrated water management.

6. CONCLUSIONS

6.1. Main issues arising from the Fitness Check

The Fitness Check of EU water policy has identified a range of issues concerned with relevance, coherence, effectiveness and efficiency. The most important conclusions arising from these which should be addressed are:

Relevance

The Fitness Check has confirmed the relevance of the current water policy framework to address the challenges faced by European freshwaters. It has also highlighted the need to improve implementation by clarifying some key notions under the WFD and by focusing more on water efficiency and on integrating quantity and quality aspects of water management. The use of different instruments should be kept under review: whilst the current arrangements are designed to give Member States flexibility and are adapted to the very different levels of development across Europe, the 2019 review of the WFD should consider whether this approach remains appropriate.

Effectiveness

There have been considerable delays in the implementation of most of the directives subject to the Fitness Check and this has slowed down progress towards the achievement of good water status. However, infringement procedures have prompted action and sped up implementation. From the preliminary assessment of the RBMPs, it appears that great efforts have been made to improve the situation and ensure integrated and effective water management.

While the objective of good ecological status is expected to be reached in the majority of EU river basins, for a very significant number of them Member States have relied on exemptions. A thorough check must be made, to ensure that the conditions under which the exemptions were granted are being fulfilled. Further attention should also be given to improve the development of water pricing, a key obligation under the WFD, but one where progress to date has been somewhat limited.

Efficiency

The Water Framework Directive has brought about improvements in coordination between administrations within and between Member States and also with third countries. EU funds to support implementation have been and will be available but they can only complement Member States funding. There is uncertainty about possible shortfalls in financing water policy, particularly in view of the overall bleak financial perspectives in many EU countries. However it is important to measure/monitor the balance between the costs and benefits of such policies and more effort needs to be made to develop and apply methodologies which produce reliable and comparable data.

Coherence

While no major lack of coherence has been identified within the body of EU water policy, some improvements are possible in relation to harmonising the reporting cycles of different directives. In relation to Member States implementation of the WFD, considerable differences have emerged which, to the extent that they hinder a coherent and effective

implementation, should be addressed in the second cycle of RBMPs. The Fitness Check has identified areas where more can be made of the synergies between water and other environment (related) policies. It has also underlined the need for improvements in relation to integration of water policy objectives and other policy areas (agriculture, regional, energy). In this respect the potential of the RBMPs as an integration tool has not yet been fully exploited.

6.2. Responding to the main issues of the Fitness Check

The Fitness Check does not propose specific responses to the conclusions that have been reached. As explained in the Introduction, a wider review of the problems facing the freshwater resources of the EU has been undertaken. In particular, additional and complementary steps in the evaluation of EU Freshwater policy include the assessment of 170 River Basin Management Plans prepared by the EU Member States under the Water Framework Directive; the review of the policy on water scarcity and drought; and several studies assessing the vulnerability of water resources to climate change and other man made pressures. All of them have prepared the ground for the impact assessment which analyzes the concrete policy options for the Blueprint to Safeguard Europe's Water Resources.

The key messages of the Fitness Check have been taken into account when developing the specific options which were open to public consultation between 15 March and 8 June 2012⁶⁵.

For instance, in relation to the messages under Relevance above on quantitative aspects of water management, possible options have been formulated on tackling water scarcity and droughts, water balancing and accounting, metering, environmental flows, water efficiency targets, reducing leakage, water re-use and ecosystem services.

Regarding Effectiveness, apart from the strong message to consider ways to improve implementation of the existing legislation, further options have been developed to facilitate the assessment of the cost effectiveness of measures.

Concerning the messages on Efficiency, potential policy options have been put forward, looking at ways to improve governance arrangements and knowledge building and sharing.

Finally, with respect to Coherence, a large number of possible options have been identified, ranging from an expanded use of the EIA and SEA, to land use measures such as green infrastructure, improved use of economic instruments (e.g. pricing) and improved coherence with agriculture, regional policy and energy policy.

Some of the conclusions of the Fitness Check will be taken forward in further reviews of EU water policy, such as the review of the Water Framework Directive in 2019. Other conclusions relating to other policy areas will need to be addressed as appropriate as those policy areas are reviewed.

⁶⁵ http://ec.europa.eu/environment/consultations/blueprint_en.htm

Annex I: Methodology of the Fitness Check

Overview

In order to frame the scope and processes to support the Fitness Check a Roadmap was prepared between July 2010 and January 2011 based on a series of meetings between the Environment Directorate General, the Secretariat-General (SECGEN) and other relevant Directorates General (DGs)⁶⁶.

Following the publication of the Roadmap, a Steering Group was established comprising officials from the SECGEN and other DGs (Agriculture and Rural Development, Regional Policy, Mobility and Transport, Energy, Health and Consumers and Enterprise and Industry). This was then merged with the Inter-service steering group for the Blueprint which met regularly.

The initial phase of work was an integrated evaluation of the effectiveness and efficiency of EU water policy. This was facilitated through a service contract with Deloitte Consulting and the Institute for European Environmental Policy which ran from late 2010 to mid-2011. The study evaluated the main issues of the Fitness Check and resulted in the publication of the scoping study⁶⁷.

Following the publication of the scoping study, a series of stakeholder consultations were held, including a public internet consultation⁶⁸, a stakeholder workshop⁶⁹ and bilateral meetings to gather further information and views and test conclusions.

Stakeholder consultations

Given the wide range of issues that could arise in undertaking the Fitness Check, a number of different consultation processes were undertaken, including web-based consultations, meetings and interviews and two workshops. DG ENV provided a dedicated page on the Europa website to describe the Fitness Check and provide links to key documents and to the online public consultation.⁷⁰

Consultations for the scoping study

The scoping study included three web-based consultations during 2011. The first targeted National Authorities relevant for the high-level management and implementation of EU water policy. The second targeted representatives of river basin management authorities. The third targeted other categories of stakeholders such as experts from the industry, NGOs, international organisations and academia. In total 61 institutions from 26 Member States and from non-EU countries responded to the surveys.

⁶⁶ <http://ec.europa.eu/environment/water/blueprint/pdf/roadmap.pdf>

⁶⁷ Deloitte & IEEP. 2011. Support to Fitness Check Water Policy. http://ec.europa.eu/environment/water/blueprint/pdf/safeguard_fitness_freshwater.pdf

⁶⁸ <http://ec.europa.eu/environment/water/blueprint/pdf/public%20consultation%20report.pdf>

⁶⁹ http://ecologic-events.eu/Fitness-Check-Workshop/sites/default/files/Conclusions_FC_2nd_Stakeholder_WS.pdf

⁷⁰ See http://ec.europa.eu/environment/water/blueprint/fitness_en.htm

Moreover, within the scoping study interviews were held with relevant authority officials, sectoral interests and NGOs for five river basins: Scheldt, Danube, Guadiana, Po and Severn.

Finally, a workshop was held on 10 May 2011. It explored the preliminary conclusions reached in the scoping study. There were more than 80 participants including stakeholders from national administrations, NGOs and sectoral federations. The feedback from participants was taken into account in finalising the scoping study.

Further consultations

After the scoping study, in late 2011, an open web-based public consultation was held, which concluded on 28 February 2012. This sought views from as wide a range of interested institutions and individuals as possible, focusing on different aspects of the Fitness Check. In total 113 responses were received from 22 countries.

In addition, meetings and interviews were held with a range of stakeholders and officials. Across the work of the Fitness Check around 50 meetings or interviews were held with Commission officials and a range of EU-level stakeholders. A second workshop was held on 9-10 February 2012. There were about 45 participants invited from the Strategic Coordination Group of the Common Implementation Strategy of the Water Framework Directive, including Member State officials, business associations, NGOs, etc. This workshop was structured to maximise participative discussion to obtain views on all of the key issues relevant to the Fitness Check.

Annex II: Glossary

CAP	Common Agricultural Policy
CIS	Common Implementation Strategy
EIA	Environmental Impact Assessment
EU	European Union
IED	Industrial Emissions Directive
IPPC	Integrated Pollution Prevention and Control
MSFD	Marine Strategy Framework Directive
NGO	Non-governmental organisation
RBMP	River Basin Management Plan
REACH	Registration, Evaluation and Authorisation of Chemicals
SEA	Strategic Environmental Assessment
TEN T	Trans European Networks for Transport
WFD	Water Framework Directive
WISE	Water Information System for Europe