



WFD is a really important Directive. It's no 2000/60 does not reflect the fact that an enormous amount of work done on different aspects of water and environmental protection before this Directive, a Framework Directive was brought into being.

The WFD has a great preamble which sets out the importance of water and the objectives which the Directive seeks to achieve. The Preamble or Introduction says:

(1) Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such;

It also has important definitions in Article 2 and Annex IV which are helpful across the whole range of water and environmental directives.



Relevant EU law on Env'mntal Protection

- Water Framework Directive 2000/60/EC (WFD)
- Waste Framework Directive 2008/98/EC
- Enviro Impact Assessment Directive 2011/92/EU
- Strategic Enviro Assessment Directive 2001/42/EC
- Environmental Information Directive 2003/4/EC
- Urban Wastewater Treatment Directive 91/271/EEC
- Nitrates Directive 91/676 EEC
- Habitats Directive 1992/43 EEC
- Birds Directive 2009/147/EC (replaces 79/409 EEC)
- Environmental Crime Directive 2024/1203 EU



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Overriding Objective

- Preamble to the WFD says:
- Action is needed to avoid long-term deterioration of freshwater quality and quantity;
- The Directive seeks to ensure sustainable management and protection of freshwater resources;
- The objective of achieving "good water status" should be pursued for each river basin;
- "Surface water status" is the general expression of the status of a body of surface water, determined by the poorer of its ecological status and its chemical status.




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(18) Community water policy requires a transparent, effective and coherent legislative framework. The Community should provide common principles and the overall framework for action. This Directive should provide for such a framework and coordinate and integrate, and, in a longer perspective, further develop the overall principles and structures for protection and sustainable use of water in the Community in accordance with the principles of subsidiarity.

25) Common definitions of the status of water in terms of quality and, where relevant for the purpose of the environmental protection, quantity should be established. Environmental objectives should be set to ensure that good status of surface water and groundwater is achieved throughout the Community and that deterioration in the status of waters is prevented at Community level.

Definitions Article 2 "Good surface water status" means the status achieved by a surface water body when both its ecological status and its chemical status are at least "good".



The purpose of the Directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which:

- (a) prevents further deterioration and protects and enhances the status of aquatic ecosystems;
- (b) promotes sustainable water use based on a long-term protection of available water resources;
- (c) aims at enhanced protection and improvement of the aquatic environment, through specific measures for the progressive reduction of discharges, emissions and losses of priority substances and the cessation or phasing-out of discharges, emissions and losses of priority hazardous substances;
- (d) ensures the progressive reduction of pollution of groundwater and prevents its further pollution, and
- (e) contributes to mitigating the effects of floods and droughts



See Article 11 WFD General Management Condition

Programme of Measures Para 3

Prior Regulation and prior authorisation for the protection of water, efficient and sustainable water use, controls over the abstraction of fresh surface water and groundwater, and impoundment of fresh surface water (a) (c) and (e).

The permitting process :

Application, Consultation, Technical assessment leading to a Permit with Conditions.

More on conditions shortly.

We must not issue licences that:

- Result in deterioration of water body status, including deterioration of individual quality elements;
- Compromise the implementation of improvement measures to ensure we aim to achieve the target status in water bodies;
- Compromise the achievement of protected area objectives (SAC, SPA and Ramsar sites).



Again, under Article 11 WFD there are requirements either to put in place or for prior regulation and prior authorisation of:

- (d) measures to safeguard water quality in order to reduce the level of purification treatment required for the production of drinking water;
- (g) for point source discharges liable to cause pollution, a requirement for prior regulation, such as a prohibition on the entry of pollutants into water, or for prior authorisation, or registration based on general binding rules, laying down emission controls for the pollutants concerned;
- (h) for diffuse sources liable to cause pollution, measures to prevent or control the input of pollutants. Controls may take the form of a requirement for prior regulation, such as a prohibition on the entry of pollutants into water, prior authorisation or registration based on general binding rules;
- (j) a prohibition of direct discharges of pollutants into groundwater;

A similar licensing or permitting regime will be required.



The WFD requires all inland and coastal waters to achieve “good” status through a catchment-based system of River Basin Management Plans (RBMPs) which describe the quality of water bodies, the pressures they face and the actions needed to meet WFD objectives of ‘good’ water body status.

Each of river basin district has its own River Basin Management Plan (RBMP), with objectives and priorities enabling a geo-specific focus on the protection, improvement and sustainable use of the water environment. River basin management is a continuous process of planning and delivery and the WFD uses a series of 6-year cycles.

Ensuring a sustainable approach to managing the water environment must be at the forefront of decision making across all local authority departments – this is not only linked to statutory duties but moreover, it is clearly a common sense approach.

There are two so called Daughter Directives, one in relation to Surface Water EQSD and one in relation to Groundwater.





Licence Conditions

- **Resources:** Abstraction measurement and reporting
- Minimum flow conditions ? "Cut off limits"
- Abstraction metering and returns
- **Quality:** Environmental Quality Standards
- Conditions on content, temperature, frequency
- Requirements for Monitoring/Self Monitoring
- Provision of Sampling analysis, effluent sampling points, telemetry, stand by pumps
- Event Duration monitoring
- Notification of failures/unauthorised discharges




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You may have one permitting regime across the whole of water or separate regimes for Water Resources and Water Quality.

Specific to each Member State.

Each aspect of water management will have a permit or licence with conditions.

At present, the WFD includes in its Annex X the list of priority substances that Member States must monitor in surface waters, but the standards for them are set in the [Environmental Quality Standards Directive](#) (EQSD) and must be met to achieve good surface water chemical status in accordance with WFD Article 4 and Annex V point 1.4.3.

Similarly, the list of pollutants and standards of EU-wide concern in Annex I to the [Groundwater Directive](#) (GWD) must also be reviewed every 6 years; these contribute to the assessment of chemical status in groundwater



Env'mntal Objectives of the WFD Article 4 Surface Waters

Aim to achieve good **surface water** status;
 Prevent deterioration in the status of water bodies;
 Protect, enhance and restore all bodies of surface water;
 Protect and enhance all artificial and heavily modified bodies of water eg reservoirs;
 Progressively reduce pollution from priority substances and cease or phase out emissions, discharges and losses of priority hazardous substances;





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- (c) aims at enhanced protection and improvement of the aquatic environment, through specific measures for the progressive reduction of discharges, emissions and losses of priority substances and the cessation or phasing-out of discharges, emissions and losses of priority hazardous substances;
- (d) ensures the progressive reduction of pollution of groundwater and prevents its further pollution, and
- (e) contributes to mitigating the effects of floods and droughts



Env'mental Objectives of WFD (Article 4)

Groundwater

- Achieve good **groundwater** status;
- Prevent or limit the input of pollutants into groundwater;
- Prevent the deterioration of the status of all bodies of groundwater;
- Protect, enhance and restore all bodies of groundwater, ensuring a balance between abstraction and recharge of groundwater;
- Reverse any significant and sustained upward trend in pollutants arising from human activity;




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Objectives : For surface water, the highest ecological and chemical status possible should be achieved, given impacts that could not reasonably have been avoided due to the nature of the human activity or pollution

For groundwater, the least possible changes to good groundwater status, given impacts that could not reasonably have been avoided due to the nature of the human activity or pollution;

(c) no further deterioration occurs in the status of the affected body of water;





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Env'mental Objectives of WFD (Article 4)

Protected Areas

- Achieve compliance with any standards and objectives within 15 years of implementation;
- Prevent or limit the input of pollutants into groundwater;
- Prevent the deterioration of the status of all bodies of groundwater;
- Protect, enhance and restore all bodies of groundwater, ensuring a balance between abstraction and recharge of groundwater;
- Reverse any significant and sustained upward trend in pollutants arising from human activity;

Article 4 1 (c) Environmental Objectives need to bring in these protections not only for Surface Water, Ground Water but also protections for Protected Areas.



Env'mental Objectives of WFD (Article 6)

Protected Areas

Article 6 WFD : Register of Protected Areas:

“Member States shall ensure the establishment of a register of all areas lying within each river basin district which have been designated as requiring special protection under specific Community legislation for the protection of their surface water and groundwater or for the conservation of habitats and species directly depending on water.





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Register of Protected Areas. The Directive requires maps and plans.

Member States shall ensure that the register is completed at the latest four years after the date of entry into force of this Directive and then updated.

But there is magic in the phrase “Protected Areas” as set out in next slide :

This is the clearest point at which WFD acknowledges the relevance and importance in terms of environmental protection of areas protected under the Birds and Habitats Directives.



Protected Areas (II)

Annex IV

PROTECTED AREAS includes areas designated:

- (i) for the abstraction of drinking water (Art 7);
- (ii) for the protection of economically significant aquatic species;
- (v) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in their protection, including relevant Natura 2000 sites designated under Directive 92/43/EEC(1) and Directive 79/409/EEC(2).





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1. The register of protected areas required under Article 6 shall include the following types of protected areas:

- (i) areas designated for the abstraction of water intended for human consumption under Article 7;
- (ii) areas designated for the protection of economically significant aquatic species;
- (iii) bodies of water designated as recreational waters, including areas designated as bathing waters under Directive 76/160/EEC;
- (iv) nutrient-sensitive areas, including areas designated as vulnerable zones under Directive 91/676/EEC and including sensitive areas under Directive 91/271/EEC; and
- (v) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in their protection, including relevant Natura 2000 sites designated under Directive 92/43/EEC(1) and Directive 79/409/EEC(2).



River Basin Management

River Basin Management plans

- Member States shall ensure that a river basin management plan is produced for each river basin district lying entirely within their territory.
- In the case of an international river basin district, MS shall coordinate to produce a single international RBM plan
- Public information and consultation;



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So how is protection achieved? RBMPs.





Where do obligations under the WFD lie?

- Requirements of the WFD rest on Member States at a high level.
- Failure to comply with the WFD is generally enforceable by the EU Com by way of Infraction proceedings or challenge by NGO;
- Judicial review likely for failure to implement or inadequate implementation;
- But note provisions of new ECD: Article 3(2) paragraph (m) requires the criminalisation of unlawful abstraction (where there is likely to be substantial damage).
- More action may follow at Member State level.




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ECD Article 3 (3) (m) new offence provision for :

the abstraction of surface water or groundwater within the meaning of Directive 2000/60/EC of the European Parliament and of the Council [\(33\)](#), where such conduct causes or is likely to cause substantial damage to the ecological status or ecological potential of surface water bodies or to the quantitative status of groundwater bodies;

But note also Article 23 of WFD Penalties

Member States shall determine penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.



Pre Application processes

- Applicants should use the pre-application consultation process to obtain advice from the consultation bodies. This should include confirmation that all relevant water bodies have been considered, that all potential impacts to these waterbodies have been considered and whether the requirements of the WFD have been met.



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Common Assessment

Water Framework Directive Assessment
Environmental Impact Assessment
Habitats Appropriate Assessment.

Common Approach:

- Screening
- Scoping
- Steps
- Risks and Receptors
- Impact Assessment




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Impact Assessment considers the potential impacts of your activity, identifies ways to avoid or minimise impacts, and shows if your activity may cause deterioration or jeopardise the water body achieving good status.

At the scoping stage you must identify all your activity's potential risks to each receptor. The receptors are: hydromorphology, biology – habitats, biology fish, water quality, protected areas. These receptors are based on the water body's quality elements.



Article 4.7 Tests

Member states will not in breach of the Directive provided certain conditions are met:

- failure to achieve good water status, is the result of new modifications to the physical characteristics of a surface water body or groundwater, or
- failure to prevent deterioration from high status to good status of surface water is the result of new sustainable human development activities
- Provided




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Art 4.7. and all the following conditions are met:

- (a) all practicable steps are taken to mitigate the adverse impact on the status of the body of water;
- (b) the reasons for those modifications or alterations are specifically set out and explained in the river basin management plan required under Article 13 and the objectives are reviewed every six years;
- (c) the reasons for those modifications or alterations are of overriding public interest and/or the benefits to the environment and to society of achieving the objectives set out in paragraph 1 are outweighed by the benefits of the new modifications or alterations to human health, to the maintenance of human safety or to sustainable development, and
- (d) the beneficial objectives served by those modifications or alterations of the water body cannot for reasons of technical feasibility or disproportionate cost be achieved by other means, which are a significantly better environmental option.



Art 4.7 conditions

In Summary these are requirements :

- a) All practical mitigation taken;
- b) Set out in the RBM plan;
- c) Overriding Public Interest;
- d) Beneficial Objectives cannot be achieved by other means.




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(d) the beneficial objectives served by those modifications or alterations of the water body cannot for reasons of technical feasibility or disproportionate cost be achieved by other means, which are a significantly better environmental option.



Environmental assessments of plans, programmes and projects Rulings of the Court of Justice of the European Union. November 2022.

•Bund v Germany (C-461/13) (AKA Weser case)

•In this 2015 case, the CJEU ruled that Member States must refuse authorization for projects that could harm the environment. The CJEU also established that all WFD objectives are legally binding and equally important.

•Schwarze Sulm (C-346/14)

•In this 2016 case, the CJEU ruled that the WFD's ecosystem approach requires sustainability to be interpreted according to ecological models.

(Case C-535/18) IL and others v Land Nordrhein-Westfalen

Court confirmed Legal Standing for Individuals. Challenge to new motorway on WQ grounds regarding surface water run off, Prior authorisation needed and no negative effect.



What do we mean by water offences?

Environmental crime can be understood as *“a collective term to describe illegal activities harming the environment and aimed at benefitting individuals or groups or companies from the exploitation of, damage to, trade or theft of natural resources, including serious crimes and transnational organised crime”* (UNEP/INTERPOL 2016,).

One of the environmental media most likely to be affected by harmful activities is the water environment. Water is a scarce and precious resource and we are likely to encounter cases involving the illegal appropriation of the water resource, water theft and those involving polluting the water environment with poisonous noxious or polluting materials.



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Envrm'ntal Crime Directive

Environmental Crime Directive 2024/1203

New offences established
Under the revised ECD certain behaviour must be capable of being dealt with as a criminal offence. Now includes:

- (m) the abstraction of surface water or groundwater where such conduct causes or is likely to cause substantial damage to the ecological status or ecological potential of surface water bodies or to the quantitative status of groundwater bodies;




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Member States have till May 2026 to implement this Directive.

It will mean that breaches of the WFD requirement in so far as abstraction is concerned can be dealt with as criminal offences. As opposed to a breach of an approval or permit issued in conjunction with an WFD assessment.



Evidence in Water cases

- Details of licence or permit
- Observation of circumstances of offence
- Witness evidence
- Nature and composition of discharge or damage
- Sensitivity/status of receiving watercourse.
- Photos, videos, drone footage
- Interviews & Admissions
- Impact/risks/harm to the Environment
- Impact/risks/harm to other water users
- Culpability
- Financial gain to offender



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