

EU water legislation, fit for purpose?

Introduction

The Commission started in October 2017¹ the evaluation of the Water Framework Directive (WFD)² through a Fitness Check together with the so-called 'daughter Directives', the Environmental Quality Standards and the Groundwater Directives. It also includes the Floods Directive (FD).

The overall purpose of this process is to assess whether the legislation is still fit for purpose and has delivered, at minimum cost, the desired changes to European business and citizens. According to the EU Better Regulation requirements, the evaluation of the Directives is an ex-post exercise, which looks at the relevance, effectiveness, efficiency, coherence and EU added value of the legislation. This will also include an assessment of the potential for regulatory simplification and burden reduction. A quantitative assessment of actual costs and benefits including impacts on business will be carried out in as far as possible. The Fitness Check may identify areas where simplifications or improvements to the legislation or its implementation could be possible. The evaluation findings will then help the Commission to decide on possible next steps.

The Commission foresees publishing the results of this Fitness Check in 2019. If the evaluation provides clear evidence that there are areas that need improvement, a first follow-up action would be to assess the value of options for such improvements through an impact assessment under the mandate of the next Commission.

State of Play

The Fitness Check covers the performance of these key Directives in all Member States and over the whole lifespan of the WFD and the FD to date, meaning the two cycles of River Basin Management Plans (RBMPs) and Programmes of Measures and the first cycle of Flood Risk Management Plans (FRMPs). The Commission is currently assessing these RBMPs and FRMPs, and plans to publish an Implementation Report³ by December 2018, which will be one of the main inputs to this Fitness Check.

¹ Roadmap on the Fitness Check on water legislation:
https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5128184_en

² As foreseen in Articles 19(2) of the Water Framework Directive

³ http://ec.europa.eu/environment/water/water-framework/impl_reports.htm

To gather as many contributions as possible, numerous consultations are planned. An open public consultation is to be launched shortly. Given that the Commission's report will only be published towards the end of the year, the open public consultation will stay open for contributions until February 2018. In parallel, targeted consultations with Member States and key stakeholders will also be carried out from now on, including several thematic workshops. The main stakeholders in this consultation will involve all competent authorities in Member States, which means authorities in charge of water-related policies across all relevant sectors, such as environment, agriculture, transport, energy, etc. It will also involve the water-related industry, economic and innovation sectors, as well as any interested civil society representatives.

This Fitness Check is closely coordinated with the ongoing evaluation of the Urban Waste Water Treatment Directive for which an open public consultation runs until 19 October 2018.

Main issues

The Commission's assessment of the 2nd RBMPs and 1st FRMPs is still ongoing, but some preliminary findings are already emerging, which together with the conclusions of previous implementation reports allow to identify a list of important issues for consideration:

- Insufficient progress on achieving WFD objectives
- Governance
- Non-deterioration obligation
- One-out-all-out principle
- Definition of 2 different status - chemical and ecological status
- Flexibility through exemptions
- 2027 final deadline for the application of exemptions
- Quantification of costs and benefits
- Reporting tools (WISE)
- Policy coherence (agriculture, energy, transport)
- Climate change and water quantity / water quality
- Water pricing, and polluter pays principle
- Floods Directive – overarching progress indicator
- Duration of the RBMPs cycles, and reporting cycles of other pieces of EU law
- Integration of the objectives of protected areas within the RBMPs
- Link drivers-pressures-measures

Evaluation of the Urban Waste Water Treatment Directive

The Commission is currently evaluating the Urban Waste Water Treatment Directive, which is by now over 26 years old. Its main objective is the protection of the environment from the negative effects of the discharges of untreated waste water. It is therefore a crucial part of the EU water *acquis*.

This REFIT evaluation is running in parallel to the Fitness Check of EU Water law. By assessing the functioning of these pieces of water legislation at the same time, the best understanding of their value in protecting our water bodies will be ensured.

The Commission published a roadmap in October 2017. Specific topics for analysis include, among others, whether current treatment is sufficient to ensure clean waters in light of emerging substances as well as approaches to energy efficiency at treatment plant level.

As part of this evaluation, a large stakeholder conference will be organised on 16 November 2018 to discuss the preliminary findings emerging from the underlying study.