

10 years of the Water Framework Directive: A Toothless Tiger?

A snapshot assessment
of EU environmental
ambitions

BIODIVERSITY AND NATURE

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EEB's aim is to protect and improve the environment by influencing EU policy, promoting sustainable development objectives and ensuring that Europe's citizens can play a part in achieving these goals. EEB stands for environmental justice and participatory democracy. Our office in Brussels was established in 1974 to provide a focal point for our members to monitor and respond to the EU's emerging environmental policy.



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SUMMARY

The adoption of the EU Water Framework Directive (WFD) in 2000 was a major landmark which established new requirements for integrated river basin planning in order to achieve ecological objectives. Ten years of planning and consultation across Europe went into River Basin Management Plans (RBMPs), which were meant to be the main vehicles for realising the new water management regime by setting the environmental objectives.

With this fifth snapshot report, the EEB and its members have investigated RBMPs across Europe to get a quantitative comparison of environmental ambitions, focussing on nutrient pollution.

Findings:

Lack of transparency and robust assessments: Only 14 Member States had adopted RBMPs by the time this study was carried out. A further four Member States finalised consultations on draft plans and nine are consulting or have not yet started. For the purpose of checking the level of environmental ambitions and measures to restore specific water quality elements, like nutrient conditions, RBMPs as well as background documents are useless. Although nutrients are amongst the best monitored and understood quality elements, specific assessments and data are not available. Only six river basin districts (RBDs) and/or countries were found where the respective RBMPs provide objectives for restoring nutrient conditions of water bodies or where this information could be provided after considerable effort.

Inadequate delays in ending eutrophication: Five of these six RBDs and regions, which provide information, aim at restoring less than one third of the surface water which suffers from excessive nutrients by 2015; the rest is to be restored some 10 years later. This massive procrastination is not underpinned by specific justifications for the individual cases, but based on generic excuses stating high costs and lack of knowledge. The minimum legal criteria appear to have not to be met.

Well-trodden paths – no reform: A spot check of programmes of measures confirms the emerging picture that water management regarding nutrient pollution control has not been reformed and continues a business as usual path.

There is nevertheless evidence of some limited progress in tackling the negative impacts on aquatic ecosystem from physical changes, in particular dams and weirs. It is encouraging that this new water management aspect is gaining recognition followed by some actions. Nevertheless, the application of exemptions, in this case the designation of heavily modified water bodies, is still the most common way to avoid moving on from old approaches.

Ten years of analysing, assessing and consultations went into developing the RBMPs. The result shows very limited progress and does not meet basic expectations for legal correctness, let alone expectations for environmental ambitions and systemic reforms as required to set the path towards sustainable water management.

This snapshot has raised serious doubts over the effectiveness of the WFD implementation to change specific and well known unsustainable water management practices. Robust nutrient pollution parameters and targeted measures, as they should be used to define and achieve the good ecological status under the 'one out - all out' principle, are unnecessarily drowning in complexity and ignorance. These issues have to be addressed in a general and longer-term perspective in the European Commission's 2012 review of the WFD implementation as part of the 'Blueprint to safeguard EU water' (EC 2010).

But immediate actions are required. We recommend that NGOs:

- Use legal avenues more intensively to uphold the minimum requirements of the WFD. In particular national courts should be called upon to condemn illegal practices in the RBMPs opening the way for their review and improvement.
- Work more closely with the competent authorities. This might not always be the river basin authority, but the finance, agriculture or transport ministry or a chemicals safety agency instead.
- Focus on tangible results, which can change the course of individual development projects, introduce toxics bans, restore wetlands and increase buffer zones and have the power to create political will for reforms.

1) INTRODUCTION

Europe's flagship legislation on water protection, the Water Framework Directive (WFD), reached its major milestone in December 2009: the deadline for delivery of the River Basin Management Plans (RBMPs). More than half of the governments across EU succeeded in adopting their plans on time. These plans are supposed to be the main instrument for establishing a new water management regime that sets ambitious environmental objectives – a move away from processes to the delivery of tangible results.

Ten years of administrative adaptations, ecological assessments, socio-economic analyses and public consultation went into these plans. Thousands of pages of EU guidance documents were agreed by the European Commission and national governments to ensure that the RBMPs would reach their objectives and allow for a comparison of actions and ambitions across Europe.

Since 2000, the EEB, together with their members, and WWF scrutinised this unprecedented implementation work. We checked and compared the quality of implementation on the ground and influenced the EU agenda. Five snapshot reports were issued¹ and five headline indicators were developed (Scheuer, 2008). These indicators, carefully considered and based on a decade of our close involvement in EU water policy reform, represent the five areas which we believe must be tackled most urgently:

1. *Transparent and publicly owned water management*
2. *Reducing wastage and using water well*
3. *More space for living rivers*
4. *Healthy, safe water for people and nature*
5. *Visionary and adaptive water policies*

The outcomes of the assessment of the draft RBMPs, based on these indicators, were rather sobering. Although transparency appeared to be improving and more space for living rivers was increasingly recognised as an issue, ambitions were low and conflicts with developments in other sectors was largely avoided to the detriment of the water protection. Environmental organisations across Europe made suggestions for improving the situation.

With this in mind the EEB decided to conduct an in depth and quantitative assessment of the newly adopted RBMPs, with a focus on ambitions to protect and restore the nutrient conditions in water bodies, as required to achieve 'good ecological status' (GES). Our assumption was that it would be feasible to obtain relevant data as nutrient pollution is well understood and well monitored. However, the outcomes of this analysis suggest otherwise.

¹ EEB 2004 & EEB and WWF 2005, 2006, 2008 and 2009

2) SNAPSHOT OBJECTIVE AND APPROACH

The objective of this snapshot was to assess the environmental objectives and the credibility of measures to achieve these objectives, as established by the RBMPs.

Information was collected during the period of February to April 2010 from the RBMPs and available background documents by environmental NGOs using a standard questionnaire. Only 14 Member States had adopted RBMPs by the time this study was carried out. A further four Member States finalised consultations on draft plans and nine are consulting or have not yet started.

In cases where nutrient data and assessments were not directly available, information was to be requested from the responsible authorities using a common model letter (Annex II).



There are four main reasons for focussing on nutrients:

1. Eutrophication remains one of the biggest environmental challenges. Due to excessive nutrient emissions from agricultural and household activities and due to reduced natural capacities to capture nutrients (e.g. loss of wetlands and floodplains), eutrophication continues to affect biodiversity and disrupt valuable ecosystem services. It is still one of the most significant reasons for water bodies failing to achieve a GES by 2015 and beyond.

2. Nutrient pollution assessment is well developed and comparable across EU Member States. For decades classification systems have been in place; nitrate and phosphate are among the most commonly monitored parameters in Europe. In addition, the WFD requires the use of several nutrient sensitive biological parameters² to establish the GES. An Intercalibration of national methods was performed at EU level and the results for nutrient parameters were published in 2008 (EC, 2008).

3. 'Nutrient conditions' are important in establishing the WFD objectives. Implementation guidance (CIS, 2005) outlines how nutrient concentrations should be used as supportive parameters for the biological quality elements, which determine GES. Their use is obligatory. The 'one out – all out' principle applies which means that if, for example, phosphate concentrations are above the standard associated with GES, the water body is not in Good Status (GS), irrespective of the status of other biological or physico-chemical parameters.

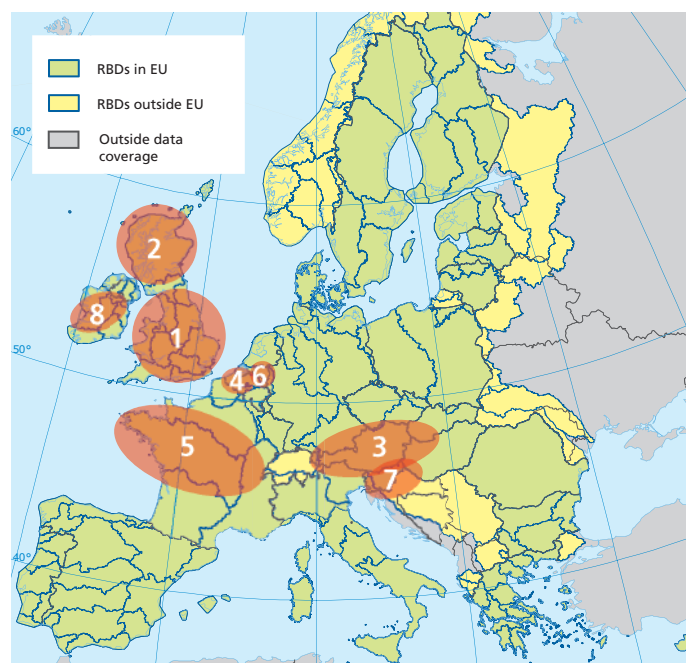
4. Tackling nutrient pollution requires reforms in agriculture. Nutrient pollution can only effectively be addressed together with changes in land use management and agriculture policies. Making this happen would demonstrate that the WFD is actually improving environmental integration.

3) RESULTS AND FINDINGS

In February 2010 the environmental NGOs started their search for information and data in RBMPs and background documents. It turned out to be more complicated than expected. More time was needed to request information from authorities. In April 2010 the exercise was terminated after it had become clear that the information was not available in most River Basin Districts (RBDs). In the end we only gathered data for eight RBDs, regions or countries as shown in the map below:

1. England & Wales Regions in the UK (E&W-UK) - RBMPs adopted
2. Scotland River Basin District (Scotland) - RBMP adopted
3. Austria - RBMPs adopted
4. Scheldt River Basin District in Flanders Belgium (Scheldt Flanders) - draft RBMP
5. Loire-Bretagne RBD in France - RBMP adopted
6. Meuse River Basin District in the Netherlands (Meuse NL) - RBMP adopted
7. Danube River Basin District in Slovenia (Danube SL) - draft RBMP
8. Shannon River Basin District in Ireland (Shannon) – draft RBMP

River Basin Districts in Europe



WISE: WATER INFORMATION SYSTEM EUROPE

3.1) LACK OF TRANSPARENCY AND ROBUST ASSESSMENTS

Data for analysing the ambition of governments in tackling eutrophication are usually not readily available in or via RBMPs. Therefore several NGO representatives sent formal request for access to WFD background information to the responsible authorities (see Annex II: model letter). Most authorities could not provide a satisfactory response. Some did provide raw data, others had no relevant information or did not respond at all.

Poland: A request for information was sent to the President of Water Authorities on 2nd of February. The response explained that on 22nd of March the RBMP will be sent to the European Commission and that nutrient reduction plans will be in line with the law. The requested nutrient data were not provided.

Czech Republic: In response to the access to information request, the water authorities provided a link to the online publication of the RBMPs and referred to the Ministry of Environment for additional information. The requested data were not provided.

Denmark: Government officials were not able to deliver information that would fit questionnaire standards. Challenging them with the fact that authorities have an obligation to report on the plans did not lead to any advancement. The authorities indicated that they had no knowledge so far about reporting formats.

Belgium – Walloon region: On request authorities did not provide information stating that the environmental objectives of the RBMPs had not been approved yet. Before approval they are not willing to share any information.

Finland: The authorities did respond to the access to information request and referred to information in a publicly available internet database. However, that data provided there do not include an outlook for nutrient conditions. It seems that such data were simply not used to set environmental objectives and establish the programs of measures.

Germany - Elbe River Basin: Relevant data are not compiled at the level of the river basin district. Such data seem to be available at Länder level. Collecting and compiling them is a work intensive exercise and has not been possible within the scope of this study.

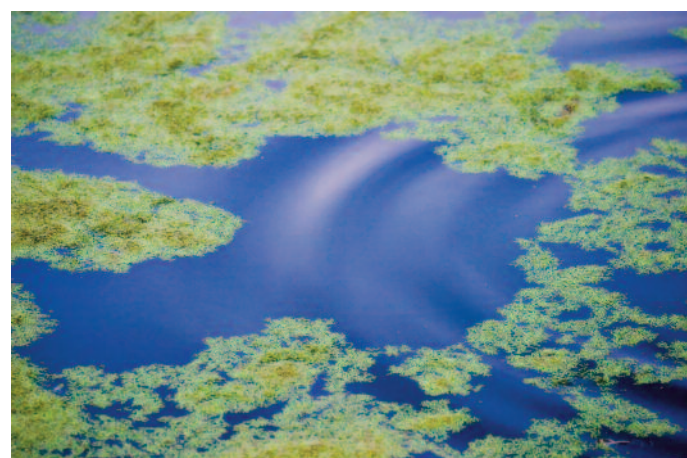
3.2) FROM PUBLIC PARTICIPATION TO EUROPEAN COMMISSION AND COURTS

Recently, several environmental NGOs decided to refer to legal proceedings to address shortcomings of the RBMPs.

England & Wales: WWF-UK and Angling Trust Limited have addressed the Court to seek permission to challenge the legality of RBMPs. They state that DEFRA, the government's environment department, fails to implement a number of key requirements of the WFD, leading to only a minor increase of water bodies reaching Good Status by 2015, as set out by the plans (from current 27% to 32% in 2015). Claimed legal failures include: extensive reliance on deadline extensions, failure to specify the measures that will be taken, non-compliance of the monitoring programme, unlawful designation of heavily modified water bodies HMWBs and an unlawful approach to disproportionate costs.

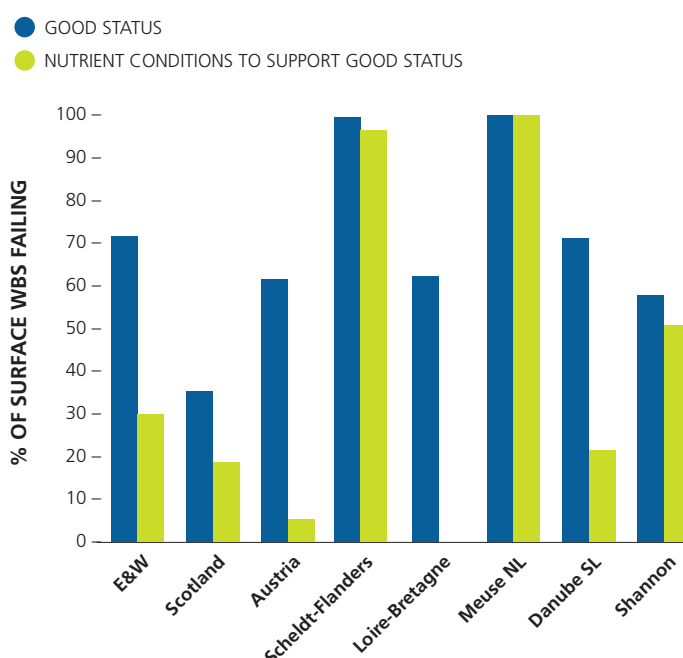
Spain: Ecologistas en Acción has prepared a formal complaint to the European Commission. It addresses non-compliance of RBMPs with the WFD, a lack of cost recovery in the agriculture sector and a lack of public participation in the process.

Netherlands: Dutch NGOs are currently reviewing the Dutch plans with a view to informing the European Commission. It is investigating all comments from Dutch nature organisations on the draft RBMPs and the extent to which they have been taken up into the final versions. They have strong indications that a number of issues remain unaddressed and that final plans would fail to comply with the WFD. Action would probably focus on the justification for the designation of HMWB and the frequent extension of deadlines to achieve GE.



3.3) LEAVING NUTRIENT POLLUTION FOR FUTURE GENERATIONS

Nutrient pollution remains a significant problem. In the RBDs, investigated nutrient conditions cause more than half of the failures to achieve GS in surface water bodies, except for Austria, England & Wales and the Danube RB in Slovenia (Graph 1).



Graph 1: Surface water bodies currently failing Good Status/nutrient conditions

The investigated RBMPs show that deadline extension is the rule rather than an exception. This means that the next generation is supposed to clean up today's pollution; a case of passing the buck, once more.

The plans suggest, in general, a very low ambition in restoring GS by 2015, keeping the biggest efforts for the last management cycle 2021-2027 (see Graph 2). Less than 1/3 of water bodies failing GS are scheduled for restoration by 2015, except for Loire-Bretagne RBD which sets itself the goal of restoring 40%. In three cases 2021-objectives are provided at a similar ambition level as for 2015. In four cases objectives for 2027 are set at 100% achievement; only Scotland assumes lower objectives for certain water bodies.

Overall, this incremental approach suggests a slow start and quick finish. This is particularly remarkable when keeping in mind the high probability that easily restorable water bodies will be tackled at an early stage, and the more severe ones later. The high levels of water bodies currently failing good status, combined with these low levels of ambition for restoring them, leads to a very grim picture for water bodies meeting the default target of GS by 2015. In England and Wales, for example, only 6% of the 73% of water bodies failing GS are to be restored, leaving 69% of water bodies falling short of the WFD 2015 target.

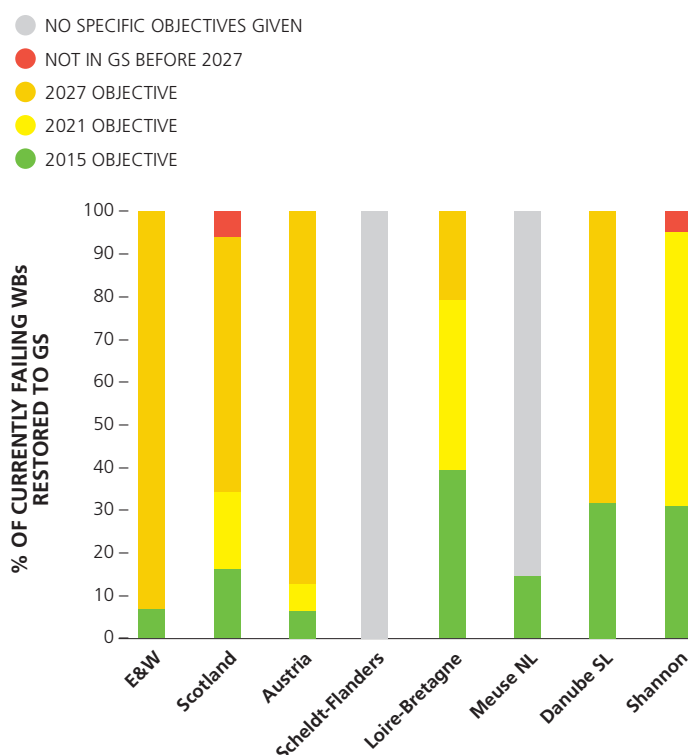
Ambitions to restore nutrient conditions, as required for GES, show very similar results (see Graph 3), though data were only available in six cases. In five cases only one third of failing water bodies are to be restored to nutrient conditions sufficient to achieve GES within the first management cycle. Most ambitious is the Danube RBD in Slovenia with 56%.

A lack of nutrient ambition also seems to have spill-over effects. In Denmark, where the public consultation process is set to start around June 2010, farmers repeatedly point to countries like Germany and the Netherlands where they claim the plans postpone all activities concerning agriculture nitrogen losses till long after 2015 (Jørgensen 2010, pers comm).

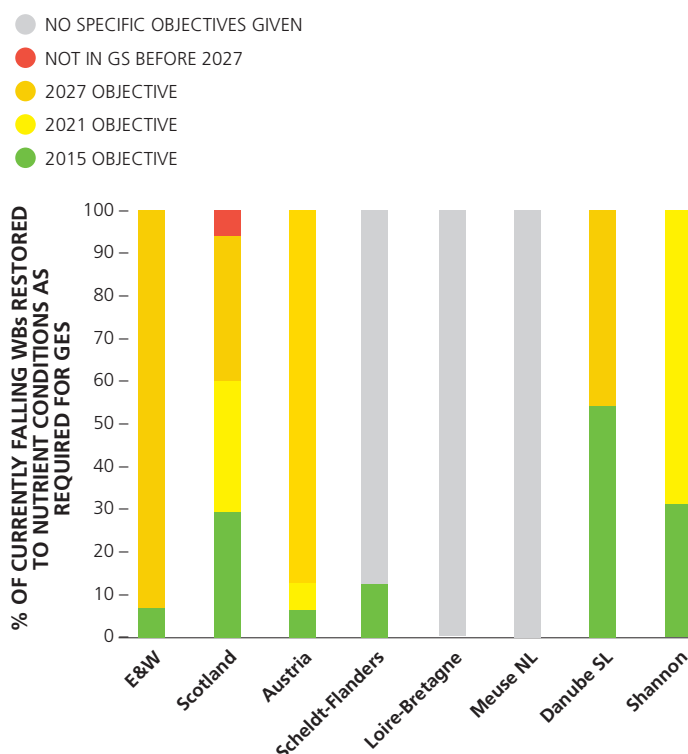
In line with this low level of ambition the investigated RBMPs present superficial and weak measures to tackle eutrophication. For the Meuse river, the only new measure is the installation of buffer zones. Other measures to address diffuse pollution are not planned which is justified by a minimalist implementation of the Nitrates Directive.

Also, in the draft Scheldt RBMP buffer zones are the only new measure, but these are not obligatory for all water courses. Measures to reduce livestock and to stimulate sustainable agriculture as well as measures to reduce nutrient pollution from households, a significant problem in Flanders, are clearly insufficient. In the Northumbrian RBMP of England and Wales phosphorus in sewage is identified as a significant pressure, but it is largely not abated as it is considered to be too expensive. Other measures presented are soft tools, such as education of farmers.

In the Shannon draft RBMP, no new measures beyond the Nitrates Directive are proposed.

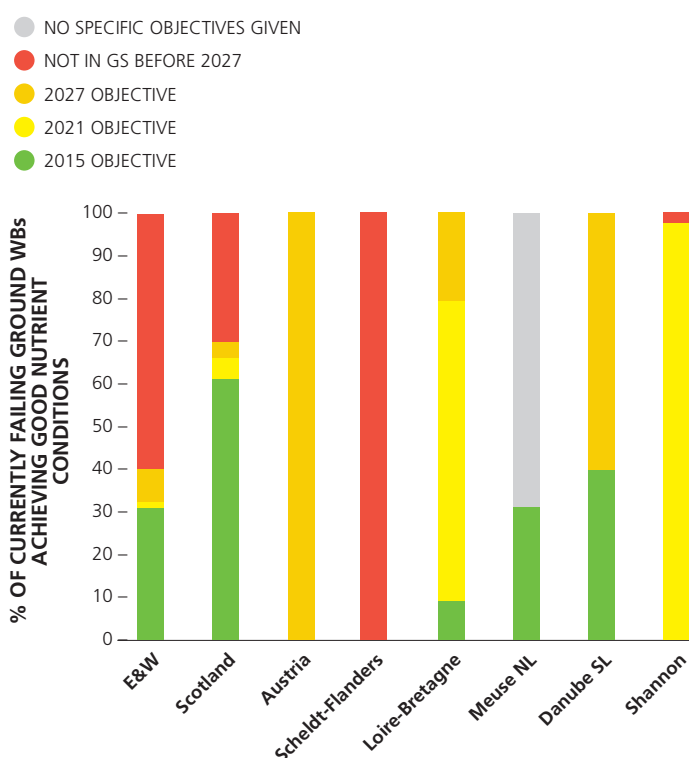


Graph 2: Good Status objectives for surface waters as set in the RBMPs expressed as the percentage of currently failing WBs to be restored to GS



Graph 3: Ambition to restore nutrient conditions in surface waters expressed as the percentage of water bodies currently failing which are to be restored to nutrient conditions required for GES.

The picture of tackling nitrate pollution of groundwater is more diverse (see Graph 4). The strategy for setting objectives seems to differ for surface waters. Scotland is the most ambitious, tackling over 60% by 2015. Loire-Bretagne is moderately ambitious. In the Shannon RBD restoration is postponed until 2021. Austria and Danube-Slovenia plan most improvements only by 2027. In the Scheldt Flanders (draft) and England and Wales RBMPs, the majority of groundwater bodies are set to achieve good nutrient conditions after 2027, if at all.



Graph 4: Ambitions to restore nitrate conditions in ground water expressed as the percentage of water bodies currently failing, which are to be restored to nutrient conditions required for GES.

3.4) ENDING EUTROPHICATION – NO MONEY & NO KNOW-HOW

The WFD requires water authorities to provide a justification for each water body subject to deadline extensions. The three possible justifications for deadline extensions are: technical infeasibility, disproportionate costs, and slow natural recovery.

Our analysis shows that justifications for deadline extensions, provided in RBMPs and their background documents, are very general. No details on water bodies are readily available for verification. 'Disproportionate cost' is named most frequently, without providing details how this judgement was made. In its most absurd form the risk of implementing a measure, which might not be the most cost-efficient one, is considered disproportionate - and thus the deadline is postponed (England and Wales). The following examples provide an illustration of justifications in different river basins:

England & Wales: Disproportionate cost is named most frequently to justify deadline extensions. An unfavourable balance between costs and benefits exists where a) 'there is insufficient weight of evidence to confirm the need to control the eutrophication risk using site specific and potentially expensive regulatory action' or b) 'there is insufficient weight of evidence to confirm the need to control the eutrophication risk and there are ongoing or planned improvement actions'. Reduction of phosphorus in sewage discharges (8-7408 Pounds/kg) and large scale agricultural reform in particular are considered too costly or technically infeasible, even by 2027 (RBMP of Northumbria).

Scotland: Extending deadlines to reduce pollution from sewage discharge is justified by disproportionate costs; more than 450-500 million GBP per year is considered disproportionate. Therefore, only 38 point sources will be dealt with before 2015, an additional 60 by 2021 and 76 more by 2027. Slow natural recovery and disproportionate costs are the reasons for delaying the reduction of diffuse agricultural pollution: 117 sites will be dealt with by 2015, an additional 115 by 2021 and 106 more by 2027. In addition, more time is required to develop a better understanding of the effectiveness of new measures, which are considered uncertain due to the diverse natural characteristics.

Austria: Abatement measures are considered disproportionately costly if their efficiency in achieving the objectives is not certain. Therefore, more time is needed for developing a better understanding of the effectiveness of new measures to address diffuse agricultural pollution.

Scheldt – Flanders: Deadline extensions are justified on grounds of technical infeasibility. A catalogue of measures proposed by authorities was used to run a water quality model for all water bodies. From this, it was concluded that GS is technically not possible. The approach and result has been heavily criticised by environmental NGOs. For example, natural restoration measures, such as wetland re-creation and economic tools, were not included in the selection of measures. Also, the model itself is potentially inaccurate. It explains only 10- 50% of the naturally observed quality variations.

Loire-Bretagne: The main deadline extension justification is based on disproportionate costs due to changing agricultural policies. Education and awareness raising measures are considered to be too difficult and time consuming.

Meuse - NL: In 96% of cases of deadline extensions the justification provided is 'technical infeasibility', and in 81% of the cases it is 'disproportionate costs' (in some cases they use both arguments). Pilots were started to develop a better understanding of the effectiveness of new measures. For two groundwater bodies the achievement of the nitrates standards due to agriculture pollution is technically not feasible by 2015 due to lack of denitrification.

Shannon – IE: Time extensions are mostly justified due to lack of 'certainty of cause' or due to 'physical recovery'. Extended deadlines until 2021 for meeting GS are applied to 31% of surface water bodies for these reasons in connection with nutrient losses from agriculture.

3.5) WHO DEFINES GOOD STATUS: EXPERTS OR POLITICS? A CASE FROM THE ELBE

An assessment of the development of nutrient targets for the Elbe RBD in Germany suggests a lowering of ambitions during the EU Intercalibration process to harmonise the ecological classification results for Chlorophyll-a concentrations.

In January 2008 German authorities issued a publication of the preliminary management objectives for the Elbe RBD. This paper explained that a Chlorophyll-a concentration of 7.5 µg / l has to be met in the relevant coastal waters in order to achieve GES, according to the ongoing work in the EU Intercalibration exercise. Achieving this target requires an overall nutrient load reduction of 45% in the RBD. A 15% reduction was suggested to be achieved in the first RBMP cycle by 2015 (Elbe 2008).

The Elbe RBMP, in its final version from November 2009, establishes a much higher Chlorophyll-a concentration of 10.8 µg/l which is sufficient to achieve GES, stating that a new agreement among German experts was reached in the EU Intercalibration process. The Commissions' Intercalibration decision (EC, 2008) failed to establish a value in this case³. In accordance with this new target, a much lower overall nutrient reduction of only 24% is required, of which 1/3 (i.e. 8%) are to be delivered until 2015 (Elbe, 2009).

Apart from the question whether this surprisingly low new reduction goal is scientifically justified and will be sufficient to achieve GES, it is noteworthy that even though it was practically cut by half, the RBMP still uses the maximum time for postponing action: in delaying the remaining 2/3 of the necessary nutrient reduction to the next management cycles, the RBMP foresees that Good Ecological Status in the coastal and transitional waters of the Elbe RBD will not be reached before 2027.

³ Commission decision 2008/915/EC does not set a value for the coastal water type NEA3/4 (Wadden Sea) within the relevant geographical group 'North East Atlantic'. For 8 other types within that group values have been set ranging from 2-15 micro gramme Chlorophyll-a per litre for the good-moderate status boundary.

3.6) NATURA 2000 WATER DEPENDENT WATER BODIES IN THE FAST LANE?

We took Scotland and Northumbria RBDs as cases to check specific ambitions and measures to restore GS for water dependent Natura 2000 sites.

In Northumbria 15 water dependent Natura 2000 sites are identified of which five currently fail to achieve “favourable conservation status”⁴, including three due to nutrient pollution. All five sites are planned to be restored by 2015 but this does not mean that all water bodies will achieve GS. The RBMP makes it clear that deadlines for achieving GS can be extended if necessary.

In the Scottish RBMPs, 296 water dependent Natura 2000 sites are identified, of which 26 are failing “favourable conservation status” due to water status. Uncertainties in assessing the effectiveness of restoration measures are high and in 16 cases a deadline extension is applied due to natural conditions or technical infeasibility. Restoration is only foreseen by 2021 or later.

3.7) PROGRESS WITH RESTORING RIVER CONTINUITY

France is making some progress in protecting and restoring the ecological continuity of rivers under the WFD. The government at national level organised an intensive debate with business and civil society about future hydropower development. As a result the environment minister (Borloo 2008) substantially changed earlier plans in order to improve coherence and compliance with WFD objectives. Specifically new capacities scheduled were reduced from 7 to 3 TWh, no-go areas were introduced (like protected habitats) and the ecological and economic improvements of existing schemes are promoted. Nevertheless, the 3 TWh was also still questioned by NGOs who point out that France has already used up a lot of its capacities. The Loire-Bretagne RBMP (SDAGE 2009) identifies over 10,000 infrastructures which reduce longitudinal river continuity and have negative impacts on the ecological status. Around 90% of this infrastructure is obsolete. 1430 infrastructures are listed for priority action. 400 of those are to be removed or changed by 2012. A budget of around 60 million euros has been set aside.

In the Elbe RBD, Germany, restoring hydromorphological conditions for achieving GES is identified as a first priority in the program of measures. The RBMP notes that 91% of river length is failing GES due to hydromorphological pressures. 276 transversal structures out of 11.000, such as dams and weirs, are found to significantly disrupt fish migration in rivers that were identified as basin-wide priority for fish migration. For nearly half of them, the ecological continuity is to be restored by 2015, meaning that fish should be able to migrate successfully.

Some federal states have identified further priorities for restoring continuity on the regional level. However, the overall extent of restoring continuity cannot be judged from the RBMP, and the number of clearly identifiable restoration projects is very small in comparison to an estimated total of 11.000 transversal structures in the Elbe basin.

⁴ The objective of Birds and Habitats Directive, establishing the EU Natura 2000 network



The federal inland navigation authority's objectives have been amended by adding protection and restoration of ecological continuity to its traditional objective to improve navigability. The authority is powerful and vested with more financial capacities than the water competent regional authorities. Beside those positive developments detrimental developments to the WFD objectives continue, like the planned deepening of the Elbe channel and the ongoing fortification of channel embankments and new small hydropower.

Next to those two cases of progress, authorities have applied extensively for a specific exemption to protect and improve hydromorphological conditions: the designation of HMWBs. This is allowed if a significant better environmental alternative to an existing water infrastructure is not realistically available.

In the Flemish region of Belgium a water body is designated as a HMWB, if more than 10% of the surface of a floodplain of a specific water body is used by dwellings. This rather crude method (based only on a geographic information system) seems to assume that, first of all, the water body cannot achieve GES, and secondly, that restoring hydromorphologic conditions to GS would be disproportionately expensive. This approach has been heavily criticised by stakeholders in the process.

In Germany, Lower Saxony, the HMWB designations have increased dramatically. In 2005, authorities provisionally designated 44% of water bodies as HMWB or AWB based on a Germany-wide mapping exercise. However, in 2006 a working group of water experts - under the direction of the regional Ministry of Environment - introduced a paper on references of HMWB designation. It changed the characterisation system for water bodies. As a result the Lower Saxony declared 85% of water bodies as HMWB and AWB. This means that 75% of 'Heide' rivers, like the Böhme, Örtze and Lachte in the Weser RB, are designated as HMWB. This seems to be absurd as these are actually among the few remaining natural rivers in the Northern German Plain, which flow through sparsely populated regions and provide shelter to rare ecosystems and organisms.

These cases in Flanders and Germany show that the designation of heavily modified water bodies is still the most common way to avoid an overly rapid change to old approaches.

4) CONCLUSIONS

This snapshot report finds that in general RBMPs are failing as a vehicle for assessing the WFD implementation. A majority of RBMPs do not provide adequate information to compare and assess ambitions and the quality of measures in tackling nutrient pollution, let alone other pressures. Even requests for access to information were not successful. We conclude that with the RBMPs competent authorities fail:

1. to set nutrient conditions for achieving GES for water bodies in the RBD; it suggests breaching of WFD rules to establish robust ecological classification systems, which are also set out by the EU guidance documents;
2. to specify the role of improving nutrient conditions in achieving GES objectives; this means that the WFD implementation is seriously threatened by a lack of detailed planning and targeted measures; or
3. to make available relevant information in a consistent way across the RBD, which suggests a breakdown for improving the transparency and scientific evidence base for water management.

In six countries and regions the adopted RBMPs were found to provide information on specific objectives for restoring nutrient conditions of water bodies. Restoration ambitions in these plans are very low and most improvements are only expected by 2027. Justification for this massive procrastination is not specific for individual water bodies, but based on generic excuses. The minimum legal criteria for applying exemptions appear to have not been met in most cases. It is not surprising that environmental NGOs are considering legal actions to uphold the bare minimum requirements established by the WFD.

A spot check of programmes of measures confirms the emerging picture that water management regarding nutrient pollution control has not been reformed and continues on a business as usual path.

Besides this bleak picture, there is progress. 'Space for rivers' is slowly finding its place in water management, especially in basins where rivers have been heavily damaged in the past. In particular, the negative impacts on aquatic ecosystems caused by dams and weirs are increasingly tackled. However, the application of exemptions, like the designation of heavily modified water bodies, is used extensively to avoid quick changes.

Ten years of analysing, assessing and consultations went into developing the RBMPs. The result shows very limited progress and does not meet basic expectations for legal correctness, let alone expectations for environmental ambitions and systemic reforms as required to set the path towards sustainable water management.

This snapshot confirms doubts over the effectiveness of the WFD implementation in terms of delivering its objectives. These doubts should be addressed in a general and longer-term perspective in the Commission's 2012 review of the WFD implementation as part of the 'Blueprint to safeguard EU water' (EC 2010).

But immediate actions are required as well. We recommend that NGOs:

- Use legal avenues more intensively to uphold the minimum requirements of the WFD. In particular national courts should be called upon to condemn illegal practices in the RBMPs, opening the way for their review and improvement.
- Work more closely with the competent authorities. This might not always be the river basin authority, but the finance, agriculture or transport ministry or a chemicals safety agency instead.
- Focus on tangible results, which can change the course of individual development projects, introduce toxics bans, restore wetlands and increase buffer zones and have the power to create political will for reforms.

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GLOSSARY AND ABBREVIATIONS

Good Status (GS): The normative environmental objective for all bodies of water as defined by the Water Framework Directive. For surface water, Good Status comprises good ecological and chemical status and is measured against a reference case represented by pristine or close-to-pristine conditions. In general GS has to be achieved by 2015. If a number of criteria and conditions are met, the achievement can be postponed twice for a period of six years and alternatively a lower objective can be set.

Good Ecological Status (GES): GES of surface water bodies is described with biological, hydromorphological and general physico-chemical quality elements. GES is achieved when the biological quality elements (e.g. composition and abundance of fish or benthic invertebrate fauna) and general physico-chemical quality elements (e.g. oxygenation or nutrient condition) are only slightly deviating from a situation where there are no or only minimal human impacts.

Good Ecological Potential (GEP): GEP is the default ecological restoration objective for water bodies identified as Heavily Modified or Artificial Water Bodies (HMWB). The GEP is defined as a slight deviation of biological quality elements from the ones which would be achieved if all mitigation measures would be carried out which do not have a significant negative impact on the beneficiary of the physical alteration of the water body.

Heavily Modified Water Bodies (HMWB) (or artificial water bodies): HMWBs can be designated if water bodies are physically and substantially changed in character as a result of human activity and if removing the physical changes (e.g. hydropower dams or flood protection dykes) that would be necessary to restore them to the Good Status would have a serious negative impact on the beneficiary of the physical change (e.g. electricity production or human settlement). In addition no alternative that is significantly better from the environmental perspective is available due to technical or cost reasons (e.g. alternative electricity production/energy saving or moving settlement).

Nutrient conditions: The WFD describes nutrients as a general supporting parameter for the GES. They play an important role in determining whether a water body achieves GES. It is necessary to determine nutrient concentrations that will ensure the functioning of ecosystems and enable the achievement of values for the biological quality elements slightly deviating from a situation without or with only minor human impacts.

River Basin Management Plans (RBMP): RBMPs are documents which present a characterisation of a river basin district, assessment of human pressures and impacts on the status of bodies of waters, economic analysis of water uses, monitoring networks, list of environmental objectives and justification of derogations from achieving good status by 2015 and programmes of measures to achieve the environmental objectives. Draft plans have to be open for consultation with public and interested parties till June 2009 and be finalised and adopted by December 2009.

River Basin District (RBD): RBDs are national administrative area delineated by an individual river basin (e.g. Rhone, German Rhine, Austrian Danube) or made up of one or more neighbouring river basins (e.g. Scotland).

Water Body: Distinct element of water, for example a river stretch, showing similar ecological or antropogenic features.

Water Status: Description of the status of a body of water based on biological, chemical and hydromorphological quality elements.

Water Framework Directive (WFD): Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

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ANNEX II - MODEL LETTER

Dear [authority / responsible official],

Re: Request to access information and data on nutrient status and objectives in [name of the river basin district]

[name of your organisation] is kindly requesting to receive the following environmental data for [name of the river basin district] based on [quote the national legislation ensuring access to environmental information – should be legislation transposing Directive 2003/4/EC] and Article 14. of the WFD.

We expect these data on nutrient concentrations and assessments to be readily available as member states are required to determine the status and objective of water bodies as set out by the RBMP.

Yours Sincerely, [xxx]

RIVERS

Which parameters and methods were used to assess the nutrient status?

	Nr of WBs failing good nutrient status?	Number of km or km ² failing good nutrient status?
Current status (specify date:.....)		
Objective 2015		
Objective 2021		
Objective 2027		

TRANSITIONAL WATERS

Which parameters and methods were used to assess the nutrient status?

	Nr of WBs failing good nutrient status?	Number of km or km ² failing good nutrient status?
Current status (specify date:.....)		
Objective 2015		
Objective 2021		
Objective 2027		

GROUND WATER

Which parameters and methods were used to assess the nutrient status?

	WBs failing good quality status due to nutrients	km ² failing good quality status due to nutrients
Current status (specify date:.....)		
Objective 2015		
Objective 2021		
Objective 2027		

LAKES

Which parameters and methods were used to assess the nutrient status?

	Nr of WBs failing good nutrient status?	Number of km or km ² failing good nutrient status?
Current status (specify date:.....)		
Objective 2015		
Objective 2021		
Objective 2027		

COASTAL WATERS

Which parameters and methods were used to assess the nutrient status?

	Nr of WBs failing good nutrient status?	Number of km or km ² failing good nutrient status?
Current status (specify date:.....)		
Objective 2015		
Objective 2021		
Objective 2027		

NATURAL AREAS

Which parameters and methods were used to assess the nutrient status?

	Nr of sites failing favourable condition due to nutrients	km ² failing favourable condition due to nutrients
Current status (specify date:.....)		
Objective 2015		
Objective 2021		
Objective 2027		

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