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# EU WATER POLICY: Making the Water Framework Directive work

## THE QUALITY OF NATIONAL TRANSPOSITION AND IMPLEMENTATION OF THE WATER FRAMEWORK DIRECTIVE AT THE END OF 2004



A second "Snapshot" Report - Assessment of results  
from an environmental NGO questionnaire by the EEB and WWF



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February 2005

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The mission of the **World Wide Fund for Nature** is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by conserving the world's biological diversity, ensuring that the use of renewable resources is sustainable and promoting the reduction of pollution and wasteful consumption.

The **European Environmental Bureau (EEB)** is a federation of over 140 environmental citizens' organisations based in all EU Member States and most Accession Countries, as well as in a few neighbouring countries. These organisations range from local and national, to European and international. The aim of the EEB is to protect and improve the environment of Europe and to enable the citizens of Europe to play their part in achieving that goal. The EEB office in Brussels was established in 1974 to provide a focal point for its Members to monitor and respond to the emerging EU environmental policy. It has an information service, runs working groups of EEB Members, produces position papers on topics that are, or should be, on the EU agenda, and it represents the Membership in discussions with the Commission, the European Parliament and the Council. It closely co-ordinates EU-oriented activities with its Members at the national levels, and also closely follows the EU enlargement process and some pan-European issues.

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# Foreword

The European Environmental Bureau (EEB) and WWF European Policy Office closely follow the Water Framework Directive (WFD) implementation at EU level in order to ensure the achievement of its objectives and the ensuing move towards long-term water management to provide future generations and their environment with sufficient water of good quality. Both organisations have already explained the workings of the WFD in several publications, presented their suggestions to help make the WFD effective on the ground, and assessed actions taken by the EU to help with its harmonised implementation.<sup>1</sup>

Nevertheless, a mere analysis of Brussels-led activities in this area would be one-sided. Eventually national and regional activities will drive and ensure the timely and efficient implementation of the WFD. These, therefore, deserve careful scrutiny in order to understand how the WFD is evolving. The year 2004 was crucial in this regard for several reasons:

- WFD transposition laws in Member States should have been finalised.
- The characteristics of river basins, including pressures and impacts on water bodies and the economics of water usage must be analysed, and the risks of failing to meet the WFD 2015 objectives must be assessed.
- Public participation should be advanced to ensure active involvement of interested parties in the implementation of the Directive.

In contrast, the findings of an EEB-conducted questionnaire on the quality of those key WFD implementation elements, carried out at the beginning of 2004, were very disappointing.<sup>2</sup>

Therefore the EEB, together with WWF, decided to repeat the exercise at the end of the year. The questions formulated at the beginning of 2004 were improved upon and allow us not only to assess progress but also give us greater insight into the quality of national WFD implementation.

This second WFD implementation "Snapshot" Report – like its predecessor – is based on information obtained from NGOs, who also had the opportunity through the questionnaire to express their general views on WFD transposition and implementation in their own countries. These views may be based on precise legal analyses of transposition laws or draft laws, and/or conversations with officials, and/or information from other sources. It follows then that this Report is based on 'soft' evidence. It intends to provide an indication of the general progress that has been made on WFD implementation to date and to highlight problem areas. Nevertheless, with 22 participants from 18 countries involved in this exercise, we are able to draw general conclusions which can be used to formulate demands and make suggestions to EU institutions, national governments and other relevant authorities, as well as to environmental NGOs themselves, in order to improve the situation.

We would like to thank Karel van den Wijngaard for developing the questionnaire, assessing the responses and drafting this Report. We also thank the EEB Members and the WWF European Freshwater Team for their participation.

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<sup>1</sup> <http://www.eeb.org/publication/general.htm>

'Tips and Tricks' for Water Framework Directive implementation, EEB and WWF, March 2004

An Assessment of Actions taken by the EU to implement the Water Framework Directive, EEB May 2003

Making the WFD Work – Ten actions for implementing a better European water policy, EEB, July 2001

Handbook on EU Water Policy under the Water Framework Directive, EEB, January 2001

<sup>2</sup> EEB, May 2004; "THE QUALITY OF NATIONAL TRANSPOSITION AND IMPLEMENTATION - A SNAPSHOT - Results of an NGO Questionnaire by the European Environmental Bureau

# Introduction and Executive Summary

The December 2000 Water Framework Directive (WFD) is the most important legislative tool for freshwater protection across the EU. It obliges Member States to meet a holistic ecological objective, i.e. to achieve good status (ecological<sup>3</sup> chemical and hydromorphological) for all waters using the river basin as the main water management unit. However, the WFD is a general 'framework' that has to be "translated" into concrete objectives and measures at the river basin level. Further, it leaves Member States with plenty of room for manoeuvre, because these objectives and measures are being determined by the transposition and implementation on national and regional laws. The European Environment Bureau (EEB) and WWF, the conservation organisation, strongly support the WFD, but remain sceptical as to whether governments will actually change from 'business as usual' to integrated river basin management and improve the condition of the aquatic environment as required by the WFD.

In order to get a picture of whether Member States are on the right path, their national activities on transposition and implementation of the WFD deserve careful scrutiny. This is why, the EEB carried out a first environmental NGO survey in January 2004, assessing the quality of Member States' WFD transposition and implementation efforts, involving 22 environmental NGOs from 17 countries. The results, published in May 2004, were very disappointing, showing very low levels of participation and involvement in the WFD transposition and implementation process. Furthermore in half of the countries the establishment of WFD objectives in the transposition laws was ambiguous, potentially undermining their guiding role for future water management options.

Together with WWF, the EEB decided to refine and repeat the above-mentioned exercise in order to assess changes and verify the first results. This second WFD implementation "Snapshot" Report reflects the situation in November 2004 and should inform decision-makers, politicians and the European Commission about what further efforts need to be made to achieve WFD objectives. It should also assist environmental NGOs in their efforts to ensure that their national and River Basin authorities' implementation actions achieve results befitting the original ambitions of the WFD.

**The Report is based on the opinion and finding of national NGOs and is not intended to be conclusive, but rather to provide an indication of general progress.**

The EEB and WWF are aware that national implementation action has progressed since November 2004 and that at the date of the release of this Report the situation might have changed. However, the Report mainly assesses the overall quality of WFD implementation and not just whether or not Member States have carried out the WFD's legally binding implementation steps, as is being done by the European Commission services. Therefore, the Report should help Member States to improve their implementation work, to point out to environmental NGOs "where" and "how" they can assist with that, and to aid the Commission services when they eventually start the process of assessing the quality of the work carried out by Member States.

In many instances, the Report makes a comparative assessment of the results of the previous environmental NGO WFD implementation "Snapshot" Report of May 2004 and shows where environmental NGO assessments have changed. This is not only because Member States have made progress on WFD implementation but also because some environmental NGOs have increased their capacity/expertise to deal with the WFD and can now make more accurate assessments.

## MAIN CONCLUSIONS OF ENVIRONMENTAL NGOS SECOND WFD IMPLEMENTATION "SNAPSHOT" REPORT

Member States general attitude to WFD transposition into national law appears to be minimalist, showing little real ambition. This is clearly illustrated by the fact that, in the majority of the countries surveyed, the main WFD objective "to achieve good status by 2015 for all waters" is not clearly stated and/or that interim measures to prevent further deterioration of the current status of the aquatic environment have not been introduced in the legal texts.

Such a low level of ambition is further confirmed when assessing the level of public participation put into practice in the WFD national implementation process. During 2004 the situation improved, but in many of the countries surveyed, public participation is still not taken seriously by the relevant authorities and there is a lack of transparency when it comes to WFD implementing actions. This, coupled with the low human and financial resources of most environmental NGOs, has led to unsatisfactory NGO involvement in WFD implementation.

River Basin and national authorities as well as environmental NGOs have a responsibility to improve the situation. Authorities should increase support for WFD implementation, actively encourage NGO/stakeholder involvement and, if necessary, finance environmental NGO participation in the process.

<sup>3</sup> Based on the biology, hydro-morphology and physico-chemistry of a water body

## THE FOUR KEY FINDINGS OF THIS REPORT ARE :

1. Environmental NGOs have high expectations regarding what can be delivered by the WFD.
2. Quality of WFD transposition and implementation is low, giving a poor basis for achieving its environmental objectives. There have been some improvements in the quality of public participation in WFD implementation in practice during the year 2004.
3. Environmental NGOs generally have insufficient capacity to fully participate in WFD implementation.
4. Governments and water management authorities are reluctant to seek environmental NGO participation in “technical” work or to communicate this work in a transparent way.

## SPECIFIC SUGGESTIONS FOR ENVIRONMENTAL NGOs:

- n *Include WFD implementation in existing work priorities and start exploring and making use of synergies and potentialities for other policy areas (nature conservation, biodiversity protection, sustainable farming, etc...) and for the establishment of sustainable conditions for the aquatic environment;*
- n *Use available legal provisions as a lever to lobby competent authorities and demand transparency in the WFD national implementation process;*
- n *Request access to data and results from the first River Basin District analyses & characterisation (WFD Article 5), compare them with your own data and information, and complain if there are major contradictions;*
- n *Demand access to the WFD intercalibration register and the possibility of commenting on the registered sites; and*
- n *Start legal complaints on incorrect WFD transposition at national court level as well as at the European Commission.*

## SPECIFIC SUGGESTIONS FOR THE EUROPEAN COMMISSION:

- n *Start infringement procedures on incomplete WFD transposition soon. Thoroughly check the national laws transposing the WFD, in particular provisions on the definition of environmental objectives, the no-deterioration obligation, the establishment of competent authorities, and on public participation (especially the encouragement of early and active involvement). This Report can provide valuable help towards out this “completeness & conformity” check;*

- n *Take special care when assessing the conformity of Member States' first River Basin District analyses & characterisation (Article 5) reports with the actual requirements of the WFD, and ensure the completeness and data quality of the WFD intercalibration register;*
- n *Ensure adequate capacity to deal with citizens' or environmental NGOs' complaints about incorrect transposition/implementation of WFD provisions; and*
- n *Provide incentives for proper WFD implementation via strict cross-compliance before releasing EU funding, especially for funds for infrastructure projects.*

## SPECIFIC SUGGESTIONS FOR MEMBER STATES AND RELEVANT NATIONAL AUTHORITIES:

- n *Continue with and build on good examples of public participation in WFD implementation;*
- n *Develop stronger political momentum, a sense of urgency and introduce long-term planning into the political debates on WFD implementation in order to improve its quality;*
- n *Dramatically increase investments in WFD implementation;*
- n *Improve management of public, and in particular environmental NGO, expectations regarding the benefits of WFD implementation. A stronger political momentum and a sense of urgency and importance should be developed. Otherwise general fatigue and lack of interest will make the achievement of WFD objectives very difficult. There are many good examples of national promotion campaigns on how to avoid this that could be replicated elsewhere. Socio-economic benefits of WFD implementation need to be explained and communicated to the different water stakeholders as well as to the public at large in order to improve decision-making, to create awareness of environmental issues and to help increase societal support and thus acceptance and commitment towards intended plans;*
- n *Train “water managers” to deal with the non-scientific – the social – aspects of their work and teach them to value society's input for long-term and successful water management; and*
- n *Competent authorities, especially in regions with a structurally low level of civil society organisation, should increase information to and funding of environmental NGOs.*

## Country Abbreviations

AT	=	Austria
BE	=	Belgium
DK	=	Denmark
DE	=	Germany
EE	=	Estonia
EL	=	Greece
ES	=	Spain
FI	=	Finland
FR	=	France
HU	=	Hungary
IE	=	Ireland
IT	=	Italy
NL	=	the Netherlands
NOR	=	Norway
PT	=	Portugal
ROM	=	Romania
SE	=	Sweden
UK	=	United Kingdom

# I. Environmental NGOs second Water Framework Directive implementation “Snapshot” Report - What is it?

The questionnaire from the previous Water Framework Directive (WFD) implementation “Snapshot” Report used in January 2004<sup>4</sup> has been revised and updated to provide for the input of this second Report. Once more, the Report consists of two main parts: Quality of WFD transposition and quality of WFD implementation.

To assess the quality of WFD transposition, most of the categories of questions used in the previous questionnaire have been included again, but the actual questions have been revised in order to improve the accuracy of the answers. In many cases, this has been achieved. However, there have been other reasons for changes in responses. For example, the situation in the countries may have evolved since the previous “Snapshot” Report. Some countries have now officially transposed the WFD, where previously there was only a draft transposition law. Some other countries already had a final transposition law at that time, but this has now been made available to environmental NGOs. All these changes together have led, in some cases, to a quite different assessment and, where possible, they are explained individually.

To assess the quality of WFD implementation, all the previous questions have been revised and new questions have been added. The reason for the inclusion of this extra material was to give a better balance in the Report between the two main parts, given that WFD implementation has now started on the ground via Article 5 first River Basin District analyses & characterisation. Consequently, the chapter on the quality of WFD implementation now has more ‘body’.

## A. Participants in the survey

The questionnaire was distributed to environmental NGOs from the EEB’s water working group and to members of the WWF European Freshwater Team. We received 22 responses to the questionnaire, covering 18 countries. These countries include 16 Member States, one Accession Country and one European Economic Area member.



Diagram 1: Countries covered by the second environmental NGOs WFD implementation “Snapshot” survey (in dark grey)

### CHANGES IN PARTICIPATION FROM ‘PREVIOUS’ “SNAPSHOT” REPORT

All the countries covered by the previous “Snapshot” Report are covered again, except for Bulgaria.

The answers from Greece came from a different environmental NGO this time. Answers from the remaining ‘old’ countries came from the same environmental NGOs involved in developing the previous Report.

There are four newcomers which were not included in the previous ‘Report’: Finland, Hungary, Scotland (as a part of UK) and the Walloon region of Belgium.

<sup>4</sup> EEB, May 2004; “THE QUALITY OF NATIONAL TRANSPOSITION AND IMPLEMENTATION - A SNAPSHOT - Results of an NGO Questionnaire by the European Environmental Bureau

## B. General attitude of environmental NGOs to the Water Framework Directive

Most of the environmental NGOs that answered the questionnaire have high expectations of the WFD. They are looking forward to benefiting from sustainable water management, with a high rate of public involvement, resulting in better ecosystem protection. In general, environmental NGOs are increasing efforts and resources dedicated to the WFD implementation process, trying to achieve results befitting the original ambition of the Directive. Some of them have made the WFD a top priority. For example, the NGO from Germany that answered the questionnaire has a special WFD-related project taking up two full-time positions. However, this example is exceptional; for a lot of environmental NGOs, their level of ambition exceeds their resources.

### **Comment from the NGO in The Netherlands that answered the questionnaire:**

*"I expect a new role for NGOs. We do not have to fight for [getting] regulations, but [instead] have to point out how they work and check the ambition level and quality of implementation"*

In contrast - as time goes on - some environmental NGOs have started to lower their expectations with regards to what can be achieved by the WFD. This is due to slow progress with national WFD implementation processes. In particular, they are often disappointed at the poor efforts and low ambition of their governments.

### **Example:**

The NGO from Belgium (Flanders) that answered the questionnaire is lowering its expectations with regards to the WFD. This is because the Flemish government is still busy with implementing the Urban Waste Water and Nitrates Directives. The WFD will only get priority after this implementation backlog is overcome.

## C. Information sources

The responses to the questionnaire come mainly from four sources:

1. the final WFD national transposition<sup>5</sup> laws;
2. the draft WFD national transposition laws;
3. other official documents;
4. information from meetings, conversations with experts etc.

Table 1: Countries covered by and sources of information used in the second environmental NGOs WFD implementation "Snapshot" survey

COUNTRIES	INFORMATION SOURCES			
	Final WFD transposition law	Draft WFD transposition law	Other official documents	Other information (e.g. from meetings or from conversations with experts)
<b>Member States that have officially transposed the WFD</b>				
Austria	X	X	X	X
Denmark	X		X	X
Estonia	X		X	X
Greece	X			X
Spain	X			
Hungary	X	X	X	X
Ireland	X	X	X	X
Sweden	X			
UK(England & Wales)	X		X	X
UK (Scotland)	X			
UK(Northern Ireland)	X			
<b>Member States that have not yet (or only partially) notified the European Commission about transposition</b>				
Belgium <sup>6</sup> (Flanders)	X			X
Belgium (Wallonia)	X			X
Germany <sup>7</sup>	X	X		X
Finland	X	X	X	X
France	X			
Italy				X
Netherlands	X	X	X	X
Portugal		X		X
<b>Countries that are not EU Member States</b>				
Norway				X
Romania	X			X

<sup>5</sup> Transposition = the process of developing national law to achieve the objectives of an EU Directive

<sup>6</sup> The Brussels region is still working on the transposition of the WFD.

<sup>7</sup> Germany's national framework legislation is finished, but the adoption of specific legislation needs to be done by the 'Länder' and that is not finished yet

## D. State of Water Framework Directive transposition

By November 2004, almost all the environmental NGOs answering the questionnaire were able to base their input on the final WFD national transposition laws (see Table 1). This is a step forward since the previous “Snapshot” Report, when the final WFD transposition laws were available in only 10 out of 17 countries.

For more updated information on the state of WFD transposition, the European Commission has developed a “scoreboard”, which is periodically updated using the latest information provided by the Member States. This can be found at [http://www.europa.eu.int/comm/environment/water/water-framework\(scoreboard.html](http://www.europa.eu.int/comm/environment/water/water-framework(scoreboard.html)

## II. Quality of Water Framework Directive transposition

Most of the categories of questions used in the previous questionnaire in January 2004 have been included again. The results have changed for different reasons. These include progress in national transposition processes, changes in environmental NGOs' opinion, and the fact that the questionnaire was more precise and detailed.

Where possible, changes in the assessment are explained individually.

### A. Overall results

Table 2 below shows the overall results of this chapter considering the quality of WFD transposition at the national level. Individual differences from the previous 'Snapshot' Report are noted.

The rest of this chapter assesses the results of this part of the questionnaire in detail, following the four categories of questions shown on Table 2. Individual explanations for the differences from the previous "Snapshot" Report are found there.

#### GENERAL REASONS FOR CHANGES IN THE ASSESSMENT

- The new questionnaire encourages clearer and more detailed answers.
- Environmental NGOs are dynamic organisations. There are changes in capacities, involvement and access to the WFD implementation process. For countries where the same NGO responded to this questionnaire and the previous survey, changes in assessment might be the result of a better understanding of progress with the WFD implementation process, as the NGO will have had more time to increase involvement and access.
- Some countries have progressed from draft to final WFD national transposition law and the final law may significantly differ from the draft.
- A change of "respondent", be it a different environmental NGO or a different person within an 'old' NGO, may lead to a change in the assessment because of different expertise/experience with the WFD implementation process, "subjectivity" of assessment etc.

Table 2: Quality of the WFD national transposition laws, draft laws, or officially expressed intentions based on the responses to the EEB/WWF questionnaire

COUNTRY	General objective	Prevention of deterioration	Competent authorities <sup>9</sup>	Public participation provisions <sup>8</sup>
	Stated Ambiguous Not stated Jan 2004 assessment NI = no information	Starting from 2003, with interim-measures <sup>10</sup> Starting after 2003 or no interim measures Not stated Jan 2004 assessment NI = no information	One authority per River Basin District, with strong powers One authority per River Basin District, with weak powers (or competences not clear yet) Co-ordination between existing authorities (or no arrangements yet) Jan 2004 assessment NI = no information	All provisions in law Provisions in law, but lack of encouragement of active involvement Weak provisions in law, or insufficient access to information (or provisions yet to be established in separate decree) Jan 2004 assessment NI = no information
<b>Member States who have notified the Commission about complete transposition</b>				
Austria		()		
Denmark	()	()		
Estonia	()	()		
Greece	()			
Spain			NI	
Hungary			NI	
Ireland		()		
Sweden		()		
UK (England and Wales)				
UK (North Ireland)				
UK (Scotland)				
<b>Member States that have not yet (or only partially) notified the Commission about transposition</b>				
Belgium (Flanders)				
Belgium (Wallonia)				
Germany				
Finland	NI			
France				
Italy	NI	NI	NI	NI
Netherlands	()			
Portugal				
<b>Non-Member States</b>				
Norway	NI	NI	NI	NI
Romania <sup>10</sup>				

<sup>8</sup> Required to respect the WFD's "no deterioration" obligation between the date it started applying (date of entry into force of the Directive or - at the latest - date of end of transposition) and the date in which the WFD Programme of Measures becomes operational, December 2012. For more information see "Tips and tricks for Water Framework Directive implementation - A resource document for environmental NGOs on the EU guidance for the implementation of the Water Framework Directive.", EEB and WWF, March 2004, available at [http://www.panda.org/about\\_wwf/where\\_we\\_work/europe/what\\_we\\_do/policy\\_and\\_events/epo/initiatives/freshwater/publications/index.cfm](http://www.panda.org/about_wwf/where_we_work/europe/what_we_do/policy_and_events/epo/initiatives/freshwater/publications/index.cfm)

<sup>9</sup> The way in which the questions under this category are posed in the second questionnaire differs from the previous one in such a way that it is not valuable to make a detailed comparison between the answers. Instead, the results here, which are more accurate, should be seen as a replacement for this part of the previous 'Snapshot' Report.

<sup>10</sup> In Romania, the official transposition will probably take place in 2007, so the judgement in this table is preliminary.

## B. General objective of the Water Framework Directive: Good ecological status

The Water Framework Directive (WFD)'s overriding objective is to achieve "good status" for all waters (groundwater and surface waters) by 2015. "Good status" includes "good chemical status", "good ecological status" and, in the case of groundwater, also "good quantitative status"<sup>11</sup>. Under certain conditions, which need to be adequately justified, the 2015 deadline can be prolonged or the objectives can be lowered. The EEB and WWF believe that national laws implementing the WFD should set the "good status" objective, especially the novel "good ecological status" objective, in a clear, specific and legally binding way.

**Does the transposition law state the general WFD objective to achieve good ecological status by 2015?**

Table 3: General WFD objective stated in the WFD national transposition laws

GENERAL WFD OBJECTIVE IN TRANPOSITION LAW			
😊 Stated	😊 Ambiguous	😢 Not stated	No info and/or transposition process not finished yet
AT, BE (Fl.), DE, FR, HU, ROM, SE, UK UK (Eng. & Wales and Scotl.)	BE (Wal.), DK, EE, EL, ES	IE, NL, PT, UK (North.IE)	FI, IT, NOR

i. Results from the previous "Snapshot" Report  
 Half of all the surveyed countries' national transposition laws did not state or did not intend to state the WFD's general objective in a clear way.

ii. Results this time – Changes or additions since the previous "Snapshot" Report<sup>12</sup>

### Changes for countries where the WFD final transposition law is now available:

n Estonia's law was previously assessed as not referring to the objective of achieving "good ecological status". However, the final WFD transposition law now available does refer to the general WFD objective, but mixes it with objectives relating to water consumption regulation and the regulation of relations between water users and landowners.

n For the Netherlands, reference to the WFD's general objective was previously assessed to be ambiguous. The final WFD transposition law shows that the situation has worsened as this does not mention the general objective to achieve "good ecological status" at all.

n For Romania, there was no previous answer to this question. Now, the final WFD transposition law is judged to refer to the general WFD objective in an appropriate way.

### Changes for countries where environmental NGOs answering the questionnaire have changed:

n For Greece, there is a subtle change in judgement. Apart from the fact that Greece's "respondent" has changed, this could also be related to the encouragement in the questionnaire for this second "Snapshot" survey to provide a more detailed answer. Previously, the answer was just 'no' to whether the general WFD objective was stated clearly in the law. The new answer is that: 'In Greece, the transposition law mentions "good ecological status", but **not** as a general objective.'

### Additions: extra info or changes in judgement without a change in the law's version or a change of "respondent":

n For Belgium (Flanders), there is some extra explanation provided to this question. Previously, the answer was just 'yes' to whether the general WFD objective was stated clearly in the law. The new answer is that: 'In Belgium (Flanders), the general WFD objective is stated, but broadened with objectives such as shipping and recreation.' However, this NGO does not see this as a weakening *per se*.

n For Denmark, there is a worsening in the situation as a result of the encouragement to provide a more detailed answer. Previously, the answer was just 'yes' to whether the general WFD objective was stated clearly in the law. The new answer is that: 'In Denmark, the objective to achieve "good ecological status" is mentioned, but there is a lot of focus on possibilities to avoid this obligation by classifying water bodies as 'heavily modified'.'

### Additions: new countries not represented in the previous "Snapshot" Report:

n In Hungary, the national transposition law states the general objective of WFD.

n In Belgium (Wallonia), the general WFD objective is stated, but, according to the "respondent", 'weakened with economic objectives'.

<sup>11</sup> For more information see "Tips and tricks for Water Framework Directive implementation - A resource document for environmental NGOs on the EU guidance for the implementation of the Water Framework Directive.", EEB and WWF, March 2004, available at [http://www.panda.org/about\\_wwf/where\\_we\\_work/europe/what\\_we\\_do/policy\\_and\\_events/epo/initiatives/freshwater/publications/index.cfm](http://www.panda.org/about_wwf/where_we_work/europe/what_we_do/policy_and_events/epo/initiatives/freshwater/publications/index.cfm)

<sup>12</sup> NB: Overall, it should be recognised that the **question** has changed slightly since the previous 'Snapshot' survey. The word 'clearly' (as in: 'whether the law states *clearly*...') has been deleted from the question, because the meaning of this word is too subjective.

- <sup>n</sup> In this 2<sup>nd</sup> “Snapshot”, UK is separated into three: England & Wales, Scotland and Northern Ireland. In England & Wales and Scotland, the general objective is clearly stated in the law. In Northern Ireland, the general objective is not stated at all.

### iii. Conclusion

The picture remains disappointing, when comparing these results with those from the previous “Snapshot” Report. Most of the environmental NGOs taking part in the survey are not satisfied with the way in which their country has transposed the WFD’s most important objective into national law. Thus, at least half of the countries covered by this Report do not refer to the WFD general objective of achieving “good ecological status” in an unambiguous way.

#### Suggestions

In the EEB and WWF’s view, all transposition laws should clearly refer to/state that the general objective of the WFD is achieving good (ecological) status by 2015. Mixing this with other objectives could lead to a general weakening of the WFD and jeopardise the achievement of this objective. The European Commission should focus its legal compliance quality control on whether countries have appropriately transposed the objectives of the WFD’s Article 4 into their national legal systems.

## C. Prevention of further status deterioration

**A basic and essential obligation under the Water Framework Directive (WFD) – as a logical step in the path to achieving “good status” - is to prevent any further deterioration in the current status of water bodies. This obligation must be met and past mistakes avoided. The EEB and WWF believe that this crucial objective and obligation should be clearly established in the national legislation to implement the WFD, be applicable from December 2003 at the latest, and include “interim measures” to avoid further deterioration until the Programme of Measures is made operational in 2012.**

*Does the transposition law state the obligation to prevent deterioration in the status of water bodies? If so, are interim-measures included in the law to cover the gap between now and the operational Programmes of Measures?*

Table 4: Prevention of further status deterioration in the WFD transposition laws

PREVENTION OF FURTHER DETERIORATION			
😊	😐	😢	
Starting by 2003 latest and interim measures	Starting after 2003 or no interim measures	Not stated	No info and/or transposition process not finished yet
AT, ROM	BE (Fl.&Wal.), DE, DK, EE, ES, FI, FR, HU, NL, PT, SE, UK (Scotl.)	EL, IE, UK (Eng.& Wales and and North. IE)	IT, NOR

### i. Result previous “Snapshot” Report’

- <sup>n</sup> Six of the surveyed countries did not clearly state or intend to state the obligation to prevent further deterioration of water status in their WFD transposition laws.
- <sup>n</sup> No countries provided appropriate “interim-measures” specifically to ensure that this WFD obligation is met until 2012.

### ii. Results this time – changes or additions since previous “Snapshot” Report’

#### Changes for countries where the WFD final transposition law is now available:

- <sup>n</sup> In Estonia, the draft WFD transposition law did not state the obligation to prevent further deterioration, but the final law *does*. This obligation is applicable from the date of transposition. However, no interim measures are introduced to cover the gap between that date and the operationalisation of the Programme of Measures in 2012.
- <sup>n</sup> In The Netherlands the transposition law does state the obligation to prevent further deterioration, but only taking effect from 2009 on without any interim measures being provided.
- <sup>n</sup> In Romania, there was no previous answer to this question. With the final WFD transposition law now available, it seems that Romania is an example of how this should be done: The prevention of further status deterioration is stated as an objective and this comes into force on the date of transposition, accompanied by interim-measures.

**Additions: extra info or changes in judgement without a change in the law's version or a change of “respondent”:**

- „ In Austria, there is now additional information on the answer to this question. The WFD transposition law states the obligation to prevent further deterioration, as known previously, starting from the date of transposition. Furthermore, the Austrian WFD transposition law includes interim measures to make this happen.
- „ In Denmark, the NGO assessment has evolved. Where previously, the transposition law was judged to not include the objective to prevent further deterioration, current assessment is that it does. However, no interim measures are introduced and the obligation only starts with the establishment of the Programme of Measures in 2009, which is too late according to the EEB and WWF.
- „ In Sweden, there is a subtle evolution in the assessment. Previously, the Swedish WFD transposition law was judged not to include the obligation to prevent further deterioration. The revised assessment is that this obligation is mentioned, but there is no date from which it should come into force, nor is there any reference to interim measures.
- „ In Ireland, the NGO answering the questionnaire could not previously give a conclusive answer to this question. Now, the “respondent” has improved his understanding of the law and can clearly state that the obligation to prevent further deterioration is NOT included in the Irish WFD transposition law.
- „ In the Belgian region of Flanders, assessment on this topic has worsened. The obligation to prevent further deterioration is stated in the WFD transposition law. But, where previously the starting date for this obligation was assessed to be 2003, it is now most probably 2006. However, things are not clear.

**Additions: new countries not represented in the previous “Snapshot” Report’:**

- „ In Hungary, the responding organisation judges the transposition law as stating the obligation to prevent deterioration of status but without further information.
- „ In Finland, the WFD transposition law includes a statement on the obligation to prevent further deterioration. This starts with the establishment of the Programme of Measures in 2009, which is too late according to the EEB and WWF. However, the Finnish transposition does contain interim measures. But regrettably, according to the “respondent”, this is just ‘in theory’.

- „ In the Belgian region of Wallonia, the WFD transposition law refers to the obligation to prevent further deterioration, but no date from which this obligation should come into force. The law does, in some way, include interim measures to achieve this, but they are not obligatory and there are no deadlines for their application.
- „ In this 2<sup>nd</sup> “Snapshot”, the UK is separated into three: England & Wales, Scotland and Northern Ireland. In England & Wales and Northern Ireland, prevention of deterioration is not mentioned at all in their transposition laws. In Scotland the obligation to prevent deterioration is mentioned and comes into effect in 2005.

*iii. Conclusions*

The WFD national transposition laws in over half of the countries covered by this second “Snapshot” survey refer to the prevention of status deterioration. This may seem like an improvement over the previous “Snapshot” Report’, but this prevention is not necessarily stated as a real obligation. In Denmark, for instance, nothing is legally binding before the establishment of the environmental goals in 2009. Furthermore, with the exception of three countries, there is still no inclusion of interim measures to actually ensure such prevention *before* the Programmes of Measures are operational in 2012.

The fact that now, apparently, three of the surveyed countries’ WFD transposition laws mention these interim measures presents a small improvement in the situation from the previous “Snapshot” Report’. If countries do not seriously try to prevent deterioration from the beginning of the WFD implementation process, the overall goal of achieving “good status” cannot be met.

**Suggestions**

In the EEB and WWF’s view, all WFD national transposition laws should clearly mention the obligation to prevent further deterioration of the status of water bodies, from the date of the Directive’s entry into force, and, failing that, from the date of transposition at the latest. Furthermore, the laws should introduce interim measures to operationalise this obligation and cover the gap until 2012 when the Programmes of Measures start operating.

The Commission should be particularly thorough when checking this obligation in their assessment of WFD national transposition laws

## D. Establishment of competent authorities

**Article 3 of the Water Framework Directive (WFD) requires Member States to establish competent authorities for all River Basin Districts.**

*Does the transposition law establish **competent authorities for River Basin Districts**, with competencies to decide on WFD implementation and related topics?*

Table 5: Competent authorities established in the WFD national transposition laws

COMPETENT AUTHORITIES			
😊	😐	🙁	
One authority per River Basin District, with strong powers	One authority per River Basin District, with weak powers (or competences not clear yet)	Co-ordination between existing authorities	No info and/or transposition process not finished yet
FI, IE, ROM	DE, DK, EE, FR, PT, SE, NOR, UK (Eng.&Wales, Scotl., North.IE)	AT, BE (Fl.& Wal.), EL, NL	ES, HU, IT

### i. Results of previous "Snapshot" Report'

In only four of the surveyed countries did the WFD transposition law establish competent authorities for each River Basin District, worthy of the title.

Half of all the surveyed countries had, in one form or another, established co-ordinated competences involving several different authorities.

### ii. Results this time– changes or additions since previous "Snapshot" Report'

The way in which this question has been posed in the second questionnaire differs from the previous one in such a way that it is not feasible to make a detailed comparison between the answers. Instead, the results here, which are more accurate, should be seen as a **replacement** for this part of the previous 'Snapshot' Report.

### Overall:

- For the Elbe, Rhine, Odra and Danube River Basins Districts, the respective International River Commissions play an international co-ordination role for WFD implementation.

### Of the 16 Member States covered by this questionnaire:

- Three countries have taken the opportunity provided by the WFD to use their national transpositions law to establish **new** authorities; one for each River Basin (DE, DK, SE). Still, the above does not necessarily mean that these authorities are actually *competent*.
- In Germany, for instance, these new authorities only serve as co-ordination units. Competences remain with the Länder. In Denmark, a major structural reform of water authorities is in the pipeline, including the establishment of River Basin Authorities; but their competences are not yet clear. In Sweden, competences still have to be determined.
- In Spain the responding organisation explains that the law approved in 2003 created a "Committee of Competent Authorities", responsible for "favouring" the coordination of authorities with competence for water and informing the EU (through the Ministry of Environment) about the River Basin District. At present, coordination work rests mainly with the Confederaciones Hidrográficas, which have considerable responsibility. However, forthcoming reforms may change this situation.
- Eight of the surveyed countries' WFD transposition laws refer to existing authorities as acting as River Basin Authorities (AT, BE (Flanders & Wallonia.), EE, EL, FR, IE, NL, PT). In the case of Austria, Belgium, Greece and the Netherlands, there are several authorities working together to cover one River Basin District. As the NGO that answered the questionnaire from Flanders stated: 'this is a missed opportunity' and a very inefficient way of working. In Estonia, France, Ireland and Portugal, one authority per River Basin District has been established. However, in Estonia, France and Portugal, this authority has insufficient competence to be able to act efficiently. Ireland sets a good example, with River Basin Authorities having competence for agriculture, industrial pollution, land use planning, navigation, energy, fisheries, drainage, flooding and more.
- In Italy, the NGO that answered the questionnaire had no access to official documents and the WFD transposition process is not finished. It is, therefore, unclear whether the transposition law establishes competent authorities.
- The situation in Hungary is unclear.
- In Finland, the WFD transposition law establishes authorities for each River Basin District, with strong competences.
- In this 2<sup>nd</sup> "Snapshot", UK is separated into three: England & Wales, Scotland and Northern Ireland. In England & Wales the law establishes one competent authority, with competences including industrial pollution, navigation, flood management, recreation and fisheries. In Scotland,

the law establishes one competent authority responsible for the implementation of the WFD, except for tackling the problem of diffuse pollution, where a competent authority to control diffuse pollution has not yet been established. In Northern Ireland, the law establishes a competent authority with individual territorial competence.

**In Romania**, it seems that the WFD transposition law establishes authorities for each River Basin District, with competences on agriculture, industrial pollution, land-use planning, navigation, energy, health and consumer protection.

**In Norway**, existing authorities (the Ministry of Environment and regional environmental authorities) will act as River Basin Authorities. The WFD transposition process has not yet officially started, but a decision has already been taken.

### iii. Conclusions

Three of the surveyed countries have taken the opportunity provided by the WFD to establish or use potentially powerful authorities for river basin management. This is a good mechanism towards effective WFD implementation and more countries should have taken it up. Most of the surveyed countries have missed their chance to make WFD implementation coherent and less complicated and many are instead creating complex situations. To quote the words of a Belgian NGO: “these river basin authorities are merely a joint meeting of existing authorities, who all keep their own responsibilities. In my view, this lack of a strong management is a missed opportunity.”

The situation described here is slightly different from the previous “Snapshot” Report, but there is no clear improvement or deterioration.

### Suggestions

The EEB and WWF believe that the best way to implement the WFD is to establish one competent authority per River Basin District, which must have the relevant competences for establishing and running integrated water management. This would make WFD implementation more effective and more likely to succeed. We consider the fact that most of the surveyed countries choose the conservative path and stick with their existing water management authorities to be a missed opportunity. Environmental NGOs should try and use their influence to lobby for the establishment of specific River Basin Authorities.

## E. Public participation provisions in the Water Framework Directive transposition laws

**Under Article 14 of the Water Framework Directive (WFD), governments should encourage active involvement of interested parties in the process of implementing the Directive, and are obliged to allow for public information and consultation in the development of River Basin Management Plans (RBMPs). The WFD national transposition laws should contain the right measures for doing so, reflecting the provisions from Article 14 of the WFD.**

*Does the transposition law establish...*

- 1 Access to all background documents leading to RBMPs?*
- 1 Public consultation procedures for the development of RBMPs?*
- 1 A six month consultation period for commenting on documents (such as draft versions of RBMPs)?*
- 1 Procedures to encourage active public involvement?*

Table 6: Provisions for public participation in the WFD national transposition laws

PUBLIC PARTICIPATION PROVISIONS (FROM WFD'S ARTICLE 14) IN TRANSPOSITION LAW			
😊	😐	🙁	
All WFD public participation provisions in law	Public participation provisions in law, but no procedures for encouragement of active involvement	Weak public participation provisions in law, or insufficient access to information (or provisions yet to be established in separate Decree)	No info and/or transposition process not finished yet
BE(Fl.), IE, NL, UK (Eng & Wales and Scot)	AT, DE, EE, ES, FI, HU, UK (North.IE)	BE (Wal.), DK, EL, FR, PT, SE, ROM	IT, NOR

### i. Results of previous “Snapshot” Report

Most or all the surveyed countries had, or were about to, fully transpose the WFD obligations as described under Article 14.

No country seemed to provide specific new rules or tools to ensure active involvement in the WFD implementation process.

*ii. Results this time – changes or additions since previous “Snapshot” Report’*

The way in which this question was asked in the second questionnaire differs from the previous one in such a way that it is not feasible to make a detailed comparison between the answers. Instead, the results here, which are more accurate, should be seen as a **replacement** for this part of the previous ‘Snapshot’ Report.

**Of the 16 Member States covered in this questionnaire:**

- „ In Italy, the responding NGO is unclear about the situation due to insufficient information. This is already a bad sign when assessing “public information and consultation”.
- „ In Hungary, there is a separate governmental Decree for river basin management, which includes a paragraph with details about public participation. This is quite similar to the provisions found in the WFD text.
- „ In Denmark, the WFD transposition law does not specifically provide for public participation arrangements. Instead, it relies on what is already provided for by Danish legislation.
- „ In France, a separate Decree should provide for the relevant public consultation procedures.
- „ In Portugal, the WFD draft transposition law only provides for public consultation procedures for the development of the RBMPs; nothing is said about access to all background documents leading to the development of the RBMPs, or about procedures to encourage active public involvement.
- „ In Greece, the WFD transposition law does not provide for access to all background documents leading to the development of the RBMPs, nor for the six months consultation period for commenting on the relevant documents mentioned in Article 14 of the WFD. However, it does provide for other public consultation procedures for the development of the RBMPs, and for procedures to encourage active public involvement. Furthermore, additional public participation provisions are expected to feature in a forthcoming Presidential Decree (currently under consultation) that will complete WFD transposition.
- „ In the remaining surveyed countries, most WFD provisions for public participation are transposed in the law:
  - <sup>1</sup> Apart from the Belgian region of Wallonia and England & Wales, Member States transposition laws provide for access to all the background documents leading to the development of the RBMPs (AT, BE(Flanders), DE, EE, ES, FI, IE, NL, SE, UK (North. IE and Scotland)).

<sup>1</sup> All the countries' laws provide for public consultation procedures for the development of the RBMPs (AT, BE(Flanders & Wallonia), DE, EE, ES, FI, IE, NL, SE, UK(Eng.&Wales, North. IE, Scotland)).

<sup>1</sup> Apart from Sweden and Scotland, all the countries' laws provide for the six months consultation period for commenting on the relevant documents mentioned in Article 14 of the WFD. (AT, BE(Flanders & Wallonia), DE, EE, ES, FI, IE, NL, UK(Eng.&Wales and North.IE)).

<sup>1</sup> Procedures for encouraging active involvement of interested parties in the WFD implementation process are apparently more difficult to transpose in the WFD national laws. Only the laws of Ireland, Sweden, Belgium (Flanders & Wallonia), the Netherlands and UK (Eng.&Wales and Scotland) refer to these. In Spain, the law defines the creation of a River Basin District Water Council that should provide information, public consultation and public participation, but the provisions on how this should be done are left to future regulations, which are not yet defined.

**Example of good practice:**

In the Netherlands, all WFD provisions for public participation are specifically referred to in the transposition law, *including* the encouragement of active involvement of interested parties. Even more so, the NGO that answered the questionnaire stated that these provisions are actually brought into practice. There are already workshops to promote public participation.

**In Romania**, it seems that only access to background documents and the six months consultation period are mentioned in the WFD transposition law.

**In Norway**, the WFD transposition process has not yet officially started.

*iii. Conclusions*

The majority of surveyed countries have transposed key elements for public participation in WFD implementation into their national laws. However, procedures to really encourage active involvement of interested parties in this process are unfortunately only provided for in four countries. It seems clear that active involvement in WFD implementation is not generally supported. Most WFD transposition laws do not introduce specific steps or tools to achieve public participation. What is even more worrying is that the laws of some countries do not even provide for sufficient access to the information leading to the development of the RBMPs.

(More on public participation in practice in chapter 3).

***Suggestions***

The EEB and WWF believe that effective public participation is essential for a successful implementation of the WFD. Effective public participation means much more than simply provisions for public participation in WFD transposition laws. Nevertheless, the provisions in these laws are the first step, and it is good to see that they are provided for in the majority of countries. Such provisions should allow environmental NGOs to lobby competent authorities should they try to ignore their responsibilities with regard to public participation. However, considering that all the surveyed countries have signed up to the Aarhus Convention<sup>13</sup> - which in many cases goes beyond the WFD requirements for public participation - it is very worrying to see a number of countries ignoring their political and legal duties.

<sup>13</sup> UNECE convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

### III. Quality of Water Framework Directive implementation

In the previous “Snapshot” Report at the beginning of 2004, there was little information available at that time on the quality of Water Framework Directive (WFD) implementation. The second questionnaire paid extra attention to this part in order to encourage greater input from NGOs. Furthermore, the WFD implementation process is now 10 months further on, having started via Article 5, the first River Basin District analyses & characterisation. Consequently, information on implementation is now more readily available.

This chapter on the quality of WFD implementation now has more ‘body’. The text below is a mix of new material and updated material from the previous “Snapshot” Report’.

#### A. Public Participation in practice

**The Water Framework Directive (WFD) provides new opportunities for citizens to get involved in water management. Public participation is crucial to an increase in the effectiveness and acceptance of the WFD implementation measures and without public support, it will be difficult or even impossible to reach the WFD’s objectives. Therefore, it is of great importance that the provisions of WFD Article 14 are not only transposed, but also implemented by Member States in a timely and efficient manner.**

*How are authorities putting public participation in practice?*

Table 7: Public participation in practice in the WFD implementation process in practice

Government updating NGOs about ongoing work on WFD implementation?		Government pro-active in involving NGOs?		Have NGOs been asked to provide input?		Have NGOs been participating in forums, meetings, conferences etc. concerning the WFD?		Has the authority's attitude towards public participation improved since the WFD was adopted?	
😊 yes	😊😊 very good	😊 yes	😊 only after asking / irregularly	😊 yes	😊 only after asking / irregularly	😊 yes	😊 only after asking / irregularly	😊😊 very much	😊😊 very much
😊 only after asking / irregularly	😊 good	😊 good	😊 only after asking / irregularly	😊 no	😊 no	😊 no	😊 no	😊 a bit	😊 a bit
😊 no	😊 moderate	😊 moderate	😊 no	😊 poorly	😊 poorly	😊 poorly	😊 poorly	😊 not really	😊 not really
COUNTRY									
AT	😊	😊	😊	😊	😊	😊	😊	😊	😊
BE(FI.)	😊	😊	😊	😊	😊	😊	😊	😊	😊
(but general attitude was and is not bad)									
BE (W.)	😊	😊	😊	😊	😊	😊	😊	😊	😊
DE <sup>14</sup>	(😊)	(😊)	(😊)	(😊)	(😊)	(😊)	(😊)	(😊)	(😊)
DK	😊	😊	😊	😊	😊	😊	😊	😊	😊
EE	😊	😊	😊	😊	😊	😊	😊	😊	😊
EL	😊	😊	😊	😊	😊	😊	😊	😊	😊
ES <sup>15</sup>	😊	😊😊	😊😊	😊	😊	😊	😊	😊	😊
FI	😊	😊	😊	😊	😊	😊	😊	😊	😊
FR	😊	😊	😊	😊	😊	😊	😊	😊😊	😊😊
HU	😊	😊	😊	😊	😊	😊	😊	😊	😊
IE	😊	😊	😊	😊	😊	😊	😊	😊😊	😊😊
IT	😊	😊	😊	😊	😊	😊	😊	😊	😊
NL	😊	😊	😊	😊	😊	😊	😊	😊😊	😊😊
(but regions are still sceptical towards public participation)									
PT	😊	😊😊	😊😊	😊	😊	😊	😊	😊	😊
SE	😊	😊	😊	😊	😊	😊	😊	😊	😊
UK (Engl & Wales)	😊	😊	😊	😊	😊	😊	😊	😊	😊
UK (Scotl.)	😊	😊	😊	😊	😊	😊	😊	😊😊	😊😊
UK (North. IE)	😊	😊	😊	😊	😊	😊	😊	😊	😊
NOR	😊	😊😊	😊😊	😊	😊	😊	😊	😊	😊
ROM	😊	😊	😊	😊	😊	😊	😊	😊	😊

<sup>14</sup> In Germany, WFD implementation lies within the competence of the Länder. It is thus very difficult to give one overall picture. Results are therefore shown in brackets.<sup>15</sup> Reflects the situation in November 2004, but since then the Spanish Administration has taken several steps to improve transparency and NGO involvement in relation to WFD implementation

### i. Result previous “Snapshot” Report’

The overall picture of public participation in practice looked quite discouraging. Apparently, most of the surveyed governments did not take it very seriously.

### ii. Results this time – changes or additions since previous “Snapshot” Report’

The questions asked in the second questionnaire are new, they did not appear in the previous one. A detailed comparison between old and new results is, therefore, not possible. Therefore, the results here should be seen as **supplementary** to those of the previous “Snapshot” Report’.

Answers to the questions on public participation in practice are shown in Table 7. However, we would first like to provide additional information from the NGOs that answered the questionnaire as well as some good and bad examples:

- „ In Belgium (Flanders), there is plenty of WFD-related information available at the regional level. However, at the national or River Basin District level, it is very hard to get any important information at all.
- „ In Germany, public participation differs from Länder to

Länder. It is thus very difficult to give one overall picture. Therefore, it should be noted that the results for Germany shown on Table 7 are given in brackets. A general problem for environmental NGOs is that they do not have access to working groups preparing national guidelines on WFD-implementation.

- „ In Estonia, interest from environmental NGOs in public participation for WFD implementation seems to be low.
- „ In Greece, the Environment Ministry has invited NGO representatives to participate in the National Water Council, a very positive development. However, as the role of this Council and its mandate are not clear, the impact which NGO opinions will have is not clear either.
- „ In Northern Ireland, the competent authorities’ attitude towards public participation has slightly improved, but it is hard to say whether this improvement has to do with the WFD or with changes in government.
- „ In Scotland, the attitude towards public participation has improved significantly in some areas, but is still lacking in others. The level of public involvement depends on the type of organisation and sometimes there are discrepancies between departments within the same organisation.

## EXAMPLES OF COMPETENT AUTHORITIES' ATTITUDES TOWARDS PUBLIC PARTICIPATION

### **Bad practice:**

- <sup>1</sup> In Austria, there are national working groups defining WFD implementation, but environmental NGOs are not part of them.
- <sup>1</sup> In Spain, the latest official update about the WFD process from the authorities to the National Water Council dates from 2001.
- <sup>1</sup> The NGO from Italy that answered the questionnaire says that the government has not provided any information and official documents were only made available on request.

### **Good practice:**

- <sup>1</sup> In Germany, NGO access to International River Commissions (e.g. Rhine, Elbe) has improved substantially and in certain cases NGOs receive specific funding to work on WFD implementation in certain cases.
- <sup>1</sup> In France, the attitude of competent authorities towards public participation in the WFD implementation process is improving. Consultation of local authorities started at the end of 2004 with public consultation programmed for the beginning of 2005. There is also an initiative to start a national campaign to increase public awareness of water management issues.
- <sup>1</sup> In Ireland, the attitude of competent authorities towards public participation in the WFD implementation process has greatly improved, with the Irish government now funding a post for an NGO-co-ordinator.
- <sup>1</sup> The NGO from Finland that answered the questionnaire has been involved in the process of developing the WFD transposition law.

### **Results of NGO action:**

In Norway, competent authorities have so far neglected public participation in WFD implementation. The NGO that answered this questionnaire publicly complained about this and now the authorities are beginning to open up and provide the relevant information.

### *iii. Conclusions*

In several countries, public authorities' attitude towards involving environmental NGOs in WFD implementation is improving. It is encouraging to see that the situation is better from that shown in the previous "Snapshot" survey at the beginning of 2004, where **most** governments did not take public participation seriously. However, the current results still show that in **many** countries, public participation and active involvement still have a long way to go to reach WFD objectives.

#### **Suggestions**

Early stakeholder involvement in carrying out WFD implementation tasks, starting with transposition and the analyses relating to Article 5, is one of the pillars of WFD implementation. This is supported specifically by Article 14 and, in general, by the Aarhus Convention. Without broad public support, WFD implementation is unlikely to be successful in improving our aquatic environment. Furthermore, the only way to get public support for WFD implementation measures is through public participation process.

It follows that in countries where public participation is neglected, environmental NGOs should do everything within their power to become involved and influence authorities' attitude. The example of Norway shows that NGO pressure can lead to changes.

## B. First analyses and characterisation of River Basin Districts

**The first characterisation of River Basin Districts – including the analysis of pressures and impacts on the aquatic environment, the economic analysis of water use and an assessment of risks of failing to achieve the environmental objectives of the WFD by 2015 - must be completed by March 2005 and reported to the Commission by the end of the year, as laid down in Article 5.**

### *i. Application of key principles*

In June 2004, the Water Directors<sup>16</sup> adopted a document entitled "Principles and communication of results of the first analysis under the WFD"<sup>17</sup>. The document contains five principles to guide countries when carrying out this first River Basin District analyses.

*How have countries been applying the five principles from the 'principle' document?*

<sup>16</sup> Informal and bi-annual meeting of "Water Directors" from EU 25, Accession Countries and Norway

<sup>17</sup> This document can be found on the EEB's website: <http://www.eeb.org/activities/water/Article-5-risk-analysis-policy-summary-and-document-final.pdf>

Table 8: Application of the five principles from the Water Directors' document on "Principles and communication of results of the first analysis under the WFD" for first River Basin District analyses

COUNTRY	Principle1: Transparency  😊😊 very good; 😊 good; 😐 moderate; 😔 poor; 😔😔 very poor  ? don't know; NA =no answer	Principle2: No status classification; targeted monitoring  😊 Yes; 😔 No;  ? don't know; NA =no answer	Principle3: Precaution and follow up  😊 Yes; 😔 No;  ? don't know; NA =no answer	Principle4: a) sound base-line and b) identification of HMWBs as "at risk"  😊 Yes; 😔 some unsound assumptions 😔 No;  ? don't know; NA =no answer	Principle5: Gap analysis  😊 Yes with follow up 😐 Yes 😔 No  ? don't know; NA =no answer
AT	😐	😊	😊	a) 😊 b) 😊	😐
BE (Fl.)	😔	NA	NA	?	😊
BE (W.)	😔	NA	NA	?	?
DE <sup>18</sup>	(😊)	(😊)	(😊)	(a) ? b) 😊	(😐)
DK	😊	?	😊	a) 😊 b) ☹	😐
EE	😊	😊	😊	a) 😊 b) 😊	😐
EL	😔😔	?	?	?	?
ES	😔	?	😔	a) ? b) 😊	?
FI	NA	NA	NA	NA	NA
FR	😊	😊	😊	a) ? b) 😊	😊
HU	😊	😊	😊	a) 😊 b) 😊	😊
IE	😐	?	?	?	?
IT	NA	?	?	?	?
NL	😊	😔	😊	a) 😊 b)?	😐
PT	😔😔	?	?	?	?
SE	😔	😔	?	?	😐
UK (Eng. & Wales)	😐	😊	😊	a) 😊 b) 😊	😐
UK (Scotl.)	😐	😊	😔	a) ? b) 😊	😐
UK (North. IE)	😊	😊	😊	a) ☹ b) ?	😐
NOR	😔😔	?	?	?	?
ROM	😔	?	?	a) ? b) 😊	?

<sup>18</sup> In Germany, WFD implementation lies within the competence of the Länder. It is thus very difficult to give an overall picture. Results are therefore shown in brackets.

## Results

Table 8 shows how the competent authorities of the different surveyed countries have applied the five principles put forward by the above-mentioned document, according to the opinion of the NGOs that answered the questionnaire.

Note that these five principles can be summarised as follows:

1. Transparency
2. First analyses cannot be equated to a status classification. Its purpose is to lead to targeted monitoring networks
3. Results of analyses based on precautionary principle (lack of information must not lead to inaction) and determine follow-up actions
4. Harmonised application of base-line scenario (sound and understandable base-line for assessment) and identification of Heavily Modified Water Bodies (according to HMWB guidance)
5. Gap analysis for missing data and steps to fill gaps outlined

Some additional information provided by the NGOs follows:

### Of the 16 Member States covered by the questionnaire:

- „ In Germany, the application of the five principles differs from Länder to Länder . It is difficult to give one overall picture. The results given here (see Table 8) may be seen as an example and are, therefore, placed between brackets.
- „ In Finland, the NGO that answered the questionnaire had no information on the application of these principles. In addition, the results from the first analyses are not yet available.
- „ In Italy, the NGO that answered the questionnaire had no information on the application of these principles. Furthermore, the first analyses had not even started at the time of the questionnaire (end 2004).

### Norway:

There is not much information from Norway on the specific application of these principles but the NGO from Norway that answered the questionnaire made a general remark which is also relevant here: “*The whole WFD implementation process in Norway lacks a sound base and is delayed and unclear.*”

### *ii. NGO (stakeholder) involvement in the pressures and impacts analysis*

*What information do respondents have about the pressures and impacts assessment and how are they involved?*

Table 9: NGO (stakeholder) involvement in pressures and impacts analysis

COUNTRY	NGO involvement	Overall comprehensiveness/transparency
	😊 Yes	😊😊 very good;
	😐 Only information	😊😊 good;
	😢 No	😊 moderate;
		😢 poor;
		😢😢 very poor
		? don't know; NA =no answer, or no information
AT	😐	😐
BE (Fl.)	😐	😢😢
BE (W.)	😐	?
DE	😊	😊
DK	😢	?
EE	😐	😊
EL	😢	?
ES	😢	😢
FI	😐	?
FR	😐	😊
HU	😐	?
IE	😢	😢
IT	😢	?
NL	😐	😢
PT	😢	?
SE	😐	😢
UK (Eng. & Wales)	😊	😊
UK (Scotl.)	😐	😊
UK (North. IE)	😐	😊
NOR	😢	😢
ROM	😢	?

### Of the 16 Member States covered by the questionnaire:

- Most NGOs that answered the questionnaire were either informed about the pressures and impacts analysis (AT, BE(Fl. & W.), EE, EL, FI, FR, HU, NL, SE, UK(Scotl. and North.IE)) or involved in carrying it out (DE, UK(Eng.&Wales)). Note that in Northern Ireland (UK), the relevant NGO lobbied to be informed and was eventually provided with the information. Results from the analysis have been made available publicly in six of these countries (AT, BE(only Fl.), EE, FR, NL, UK(Eng.&Wales, North.IE, Scotl.)). Only the NGOs from Estonia, France and UK(Eng.&Wales, North.IE) assess these results as understandable.
- In Germany, there is again a big variation between Länder, but in most Länder at least some information has been made available about the pressures and impacts analysis. Results are usually also available.
- In Ireland and Portugal, there is neither NGO involvement in nor information made available about the pressures and impacts analysis.

■ In Denmark, Greece and Italy, the pressures and impacts analysis had yet to start (end 2004).

■ In Spain, the contracts for carrying out the pressures and impact analysis were only issued in August 2004.

**In Romania**, the NGO was neither involved nor informed about the pressures and impacts analysis at the time of the questionnaire (end 2004).

**In Norway**, the NGO is neither involved nor informed about the pressures and impacts analysis, but results are publicly available. These do not seem to be understandable.. For instance, the mapping exercise has been delayed due to lack of funds for WFD implementation.

*iii. Water body characterisation: How many are at risk of failing to meet the WFD objectives by 2015 and how many might be considered as 'heavily modified' or 'artificial'?*

*Were respondents able to get information from their authorities on the number of water bodies 'at risk' or water bodies identified as 'heavily modified' or 'artificial'?*

Table 10:Water body characterisation

COUNTRY	Water Bodies at risk (based on preliminary findings and estimates)	HMWB (based on preliminary findings and estimates)
AT	Rivers: 41% at risk. In the case of a further 42%, more information is needed Lakes: 8 out of 62 at risk	Rivers: 35%. A further 46% also possible but data is lacking Lakes : 24 out of 62
DE	Ranges from 100% (Baden-Württemberg) to 60% (Bavaria); mostly >70%	HMWB: ranges from 4% (Hesse) to 50% (Bavaria); exception "city-state" Hamburg 83% AWB total: 1% (Thuringia) to 51% (Brandenburg)
EE	Rivers: 20% ("bad chemical status due to excess phosphorus") Lakes: 4% ("point and diffuse pollution, lowering of water level") Coastal: 0%	Only estimate: "not many"
NL	Rivers, lakes and coastal: 95%	Rivers and lakes: 98-99%
UK (North.IE)	Rivers: 98% Lakes: 96% Coastal: 95%	Not possible to get this data
UK (Scotl.)	Rivers: 47% Lakes: 62% Coastal: 16%	[no answer]
UK (Eng. & Wales)	Rivers: 95% Lakes: 82% Coastal: 98%	Rivers: 63% Lakes: 52%

There were very few answers to this question. Only seven NGOs, from five countries, had access to these figures from their competent authorities (AT, DE, EE, NL, UK). In these cases, NGOs tended to agree with the figures provided for water bodies characterised as being "at risk" and to disagree with the figures for the HMWB

- n The rest of the NGOs did not have access to these percentages (BE (Fl. & W.), DK, FR, IE, PT, SE, ROM), or the percentages were simply not available at the time (end 2004) (EL, ES, FI, HU, IT, NOR).

#### *iv. Economic analysis of water use*

- 1 What information do respondents have about the economic analysis of water use and how are they involved?*
- 1 Have environmental and resource costs been taken into account?*

Table 11 Economic analysis of water use

COUNTRY	NGO involvement	Overall comprehensiveness/transparency
	☺ Yes	☺☺ very good;
	☺ Only information	☺ good;
	☺ No	☺ moderate;
		☺ bad
		☺☺ very bad
		? don't know; NA =no answer, or no information
AT	☺	☺
BE (Fl.)	☺	☺☺
BE (W.)	☺	?
DE	☺	☺
DK	☺	?
EE	☺	☺
EL	☺	?
ES	☺	☺
FI	☺	?
FR	☺	☺
HU	☺	?
IE	☺	?
IT	☺	?
NL	☺	☺
PT	☺	?
SE	☺	☺
UK (Eng. & Wales)	☺	☺
UK (Scotl.)	☺	☺
UK (North. IE)	☺	?
NOR	☺	☺☺
ROM	☺	?

### **Of the 16 Member States covered by the questionnaire:**

- „ In eight of the surveyed countries, NGO that answered the questionnaire have either been informed about the economic analysis of water use (AT, BE(Fl.&W.), DE, EE, ES, FR, HU, IE, UK(Eng.&Wales)) or additionally involved in carrying it out (UK (Scotland); in Northern Ireland, the NGO has neither been informed nor involved). In five of these countries, results or draft results are available (AT, BE(Fl.), EE, FR, UK (Eng.&Wales and Scotl.)). None of the NGOs judge the comprehensibility of these results as ‘good’. It should also be mentioned here that the results of the economic analysis of water use are often quite complex and most environmental NGOs do not have the technical capacity to assess them in detail.
- „ In Ireland, the NGO had received an invitation to comment on the results of the economic analysis of water use, but could not accept it due to lack of technical capacity within the organisation.
- „ In Estonia, the Netherlands, Portugal and Sweden, NGOs have neither been informed about nor involved in the economic analysis of water use. In the Netherlands, however, results from the analysis are publicly available.
- „ In Denmark, Greece, Finland and Italy, the economic analysis of water use had yet to start at the time of the questionnaire (end 2004).

**In Romania,** the NGO that answered the questionnaire was neither involved in nor informed about the economic analysis of water use.

**In Norway,** the NGO that answered the questionnaire was neither involved in nor informed about the economic analysis of water use. However, the results are publicly available. These are judged as incomprehensible..

Only very few NGOs could say whether the environmental and resource costs have been taken into account in the economic analysis of water use. Most environmental NGOs cannot handle such detailed technical information. As said before, that does not necessarily mean that this information is not available, but could result from the fact that many environmental NGOs do not have the technical capacity to assess this.

- „ In the Belgian region of Flanders, environmental and resource costs are not mentioned in the economic analysis of water use.
- „ In Greece and Spain, environmental and resource costs are briefly mentioned in the economic analysis of water use. In Greece they will be taken into account, according to a comment from the Ministry of Environment.

- „ In Austria and England & Wales, the relevance of environmental and resource costs in the economic analysis of water use has been acknowledged, but no figures have been provided by the competent authorities.
- „ In Estonia competent authorities have provided figures on the environmental and resource costs.

### *v. Conclusions*

In a very significant number of the surveyed countries, there is no proper involvement of environmental NGOs in the very important first analyses & characterisation of River Basin Districts (RBD). The EEB and WWF consider that RBD analyses & characterisation should be transparent. However, in at least six of the Member States surveyed, this is has not been the case. For instance, NGOs experienced great difficulty in getting the percentages for ‘heavily modified’, ‘artificial’ and ‘at risk’ water bodies. These difficulties do not only result from the fact that these characterisations were incomplete at the time (end 2004) but also from a lack of transparency.

The consequences of not applying the principle of “transparency” are immediately visible in Table 8. When there is no transparency, NGOs have great difficulty in assessing the application of the remaining four principles that must guide the implementation of Article 5 of the WFD according to the Water Directors. In many cases they just do not have the information to do so.

However, there are some positive examples. According to the results, the new Member States covered by this questionnaire (EE and HU) are making a substantial effort to deliver a good first RBD analyses & characterisation (e.g. see Table 8), especially in the case of Estonia.

Of the “old” Member States, the UK (Eng.&Wales, Northern Ireland and Scotland) gets positive scores for the way it has carried out the WFD first RBD analyses & characterisation.

For some of the surveyed countries, it is unlikely that they will meet the deadline of March 2005 for completion of the WFD first analyses & characterisation of River Basin Districts. The fact that so few NGO could obtain the percentages for ‘heavily modified’, ‘artificial’ and ‘at risk’ water bodies, supports this impression. In addition, some of the countries had yet to begin parts of the analyses & characterisation process at the time the survey was carried out (end 2004) For example, Greece with the pressures and impacts analysis; Finland with the economic analysis of water use; Denmark with both of them; or even the whole process, as in the case of Italy.

### Suggestions

In the EEB and WWF's view, the first analyses and characterisation of River Basin Districts under the WFD is a key implementation step which will determine the level of ambition and effectiveness of the River Basin Management Plans and Programmes of Measures aimed at the achievement of "good status". The results of this exercise will define WFD implementation work over the next 4-5 years and it is therefore of great importance that countries get it right immediately, with public participation being a crucial part of this. If environmental NGOs have access to the data and results of the first RBD analyses & characterisation, they can assess their competent authorities' performance, develop a sense of ownership for the WFD implementation process and provide support.

Environmental NGOs have a right to public participation but, at the same time, they need to have the *capacity* to be able to play a role in the WFD implementation process. Considering the difficulties environmental NGOs face in funding their work and the resulting lack of capacity, they understandably show little willingness to take on additional work, especially of a technical nature. This, combined at times with the difficulty of facing a very 'closed' water authority, has resulted in low levels of NGO involvement in the WFD's first RBD analyses and characterisation.

River Basin and national authorities, and environmental NGOs have a responsibility to improve upon this situation. On the one hand, competent authorities have to become more outward looking, actively encourage NGO involvement and, if necessary, provide financial support for NGO participation in relevant meetings. On the other hand, environmental NGOs have to include this "new" work in their existing priorities – using the WFD as an important tool for biodiversity conservation, nature protection and environmental sustainability.

Lack of transparency in the WFD implementation process is unacceptable. Environmental NGOs should lobby their competent authorities for access to data and results from the first RBD analyses & characterisation and compare them with their own data and information as well as publicly highlighting any major contradictions.

The European Commission should be aware of the fact that countries are running out of time for their WFD first RBD analyses & characterisation, which could affect all their follow-up work. Therefore, the quality of the Member States first RBD analyses reports should be carefully checked against the actual requirements of the WFD.

### C. Intercalibration

**The WFD intercalibration exercise is necessary to ensure that the national ecological status classification schemes are in line with the actual WFD requirements, and that status/class boundaries represent a comparable level of ambition in all countries. It is, therefore, one of the most sensitive and political tasks in the WFD implementation process because it will set the level of environmental ambition. Thus, it will determine the future effort required from Member States to achieve the WFD objectives.**

- <sup>1</sup> *What information do respondents have about intercalibration? And how are they involved?*
- <sup>1</sup> *How do respondents judge the classification of sites in the intercalibration register?*

#### i. Results

##### Of the 16 Member States covered by the questionnaire:

- <sup>n</sup> In five of the surveyed countries, NGOs that answered the questionnaire were not involved in the WFD intercalibration exercise and have not asked their competent authorities for any data (AT, BE(Wal.), DE, IE, UK (England&Wales, Northern IE, Scotland)). As stated earlier, this may have to do with lack of technical capacity, as has indeed been mentioned by the NGO from England&Wales.
- <sup>n</sup> In Finland and Sweden, NGOs that answered the questionnaire have been involved in the national intercalibration activities. However, they could not assess whether classification of sites in the intercalibration register is correct or not.
- <sup>n</sup> In Italy, the responding NGO does not receive information about the intercalibration exercise on a regular basis, but is informed on demand. Furthermore, the "respondent" explained that the Italian classification is based on Italian standards (national laws and methodologies) and made no further assessment.
- <sup>n</sup> In all the other surveyed countries, NGOs were not involved in the WFD intercalibration exercise, but have been trying to gain access to data from their competent authorities (BE(Fl.), DK, EE, EL, ES, FR, HU, NL, PT). In five countries, this data has been provided (BE(Fl.), DK, HU, NL, PT). The NGOs from Hungary and the Netherlands do not assess the classification of sites. The NGO from Belgium (Flanders) assesses site classification and finds it mainly incorrect. In contrast, the NGO from Denmark finds the classification of Danish sites to be largely correct. The Portuguese NGO finds the classification of sites mainly correct for rivers and mainly incorrect for other water bodies.

### **Examples of bad practice:**

- <sup>1</sup> In the UK, the Royal Society for the Protection of Birds (RSPB) tried unsuccessfully to access information on how the intercalibration exercise was being carried out.
- <sup>1</sup> According to the “respondent” from Portugal, the Portuguese Administration does not provide any information on the implementation of the WFD and is even trying to keep NGOs “busy” with outdated information. For example, they received one year old information on the intercalibration sites when they asked for the *final* register.

**In Romania,** the NGO participating in this survey has not been involved in the WFD intercalibration exercise. The competent authorities did not provide the data on request. Nevertheless, the “respondent” obtained the data at EU level and assesses the classification of Romanian sites in the intercalibration register as mainly correct.

**In Norway,** the NGO that answered the questionnaire is not involved in the WFD intercalibration exercise and has not asked for the relevant data.

### *ii. Conclusions*

The intercalibration exercise is one of the most sensitive and political tasks in the WFD implementation process. Consequently, only two of the NGOs that answered the questionnaire were involved in it. Competent authorities have apparently succeeded in presenting WFD intercalibration as a purely technical exercise, because - according to the results of this “Snapshot” survey - environmental NGOs are not very eager to be involved in it. It has also been mentioned before that this could result *inter alia* from lack of capacity. Nevertheless, half of the environmental NGOs that *did* try to get information on the intercalibration exercise were unsuccessful, showing a lack of transparency on the part of the competent authorities.

### **Suggestions**

This second “Snapshot” Report has already shown many bad examples illustrating a lack of access to information in the WFD implementation process. Of these, the intercalibration exercise is the worst. It is intolerable that such an important step for WFD implementation should be shrouded in secrecy, as it sets the level of environmental ambition for NGOs and is thus highly relevant to their future activities. NGOs should have a say in this process *inter alia* not only because they represent a legitimate public interest but also, and perhaps more importantly, because they could help carry it out.

Environmental NGOs should be granted access to the intercalibration register and the possibility to comment on the registered sites for their countries.

The European Commission should be especially careful when checking the completeness and quality of data in the Member States’ contribution to the intercalibration register.

## IV. Conclusions and the way forward

Environmental NGO participation in the EEB and WWF's second WFD implementation "Snapshot" questionnaire of November 2004 was successful, involving a representative number of NGOs from a large number of countries. This allows us to draw some general conclusions and to formulate suggestions for further action to decision-makers at national and EU level as well as to environmental NGOs themselves in general.

Nevertheless, it should be remembered that the situation as regards the quality of WFD transposition and implementation presented here is based on participating organisations' opinions and therefore, depends - to a large extent - on the available capacities to analyse WFD transposition laws and available implementation documents as well as on the transparency and completeness of the implementation exercise carried out by competent authorities. Having stressed this, what we can conclude from the exercise is as follows:

1. Environmental NGOs have high expectations regarding what can be delivered by the WFD: They expect improvements on the ground as a result of the application of many environmental protection policies; in particular in the status of aquatic ecosystems as a result of WFD implementation. However, in a few cases, environmental NGOs lowered their expectations during 2004 due to slow progress, inaccessibility to and lack of understanding of their government's work and political ambition with regard to WFD implementation.

### **Suggested follow-up action**

*1 Member States should improve their management of public, and in particular environmental NGO, expectations as far as the benefits of WFD implementation are concerned. Stronger political momentum and a sense of urgency and importance should be developed. Failing this, general fatigue and a lack of interest will make the achievement of WFD objectives very difficult. There are many good examples of national promotion campaigns on how to avoid this that could be replicated elsewhere; and*

*1 We would like to stress that the socio-economic benefits of WFD implementation need to be explained and communicated to the different water stakeholders as well as to the public at large in order to improve decision-making, to create awareness of environmental issues and to help increase societal support and thus acceptance and commitment for intended plans.*

2. Quality of WFD transposition and implementation is low, which provides a poor basis for achieving its environmental objectives. There have been some improvements in the quality of public participation in WFD implementation in practice during the year 2004: Most Member States follow a minimalist legal approach. In many cases, there is strong evidence of legally incorrect transposition, including omissions of key environmental objectives and requirements established by the WFD. There is evidence of poor quality and late action on carrying out the first steps of implementation. Only the quality of public participation and stakeholder involvement has improved during the year 2004, due to an increase in activities from governments and competent authorities as well as NGOs asking for access to data and consultation.

### **Suggested follow-up action**

*n Environmental NGOs should:*

*1 Start legal complaints on incorrect WFD transposition at national court level as well as at European Commission level;*

*1 Use available legal provisions as a lever to lobby competent authorities and demand transparency in the WFD national implementation process;*

*1 Request access to data and results from the first River Basin District analyses & characterisation (WFD Article 5), compare these with NGO- gathered data and information, bring any major contradictions to the public's attention and ask for changes if such contradictions exist.;*

*1 Demand access to the WFD intercalibration register and the possibility of commenting on the registered sites.*

*n The European Commission services should:*

*1 Start infringement procedures on incomplete WFD transposition soon. Thoroughly check national laws transposing the WFD, in particular provisions on the definition of environmental objectives, the no-deterioration obligation, the establishment of competent authorities, and on public participation (especially the encouragement of early and active involvement). This report can provide valuable help for carrying out this "completeness & conformity" check;*

- <sup>1</sup> Take special care when assessing the conformity of Member States' first River Basin District analyses & characterisation (Article 5) reports with the actual requirements of the WFD, and ensure the completeness and data quality of the WFD intercalibration register;
- <sup>1</sup> Ensure adequate capacity to deal with citizens' or environmental NGOs' complaints about incorrect transposition/implementation of WFD provisions; and
- <sup>1</sup> Provide incentives for proper WFD implementation via strict cross-compliance before releasing EU funding, especially funds for infrastructure projects.
- Member States should
  - <sup>1</sup> Continue with and build on good examples of public participation in the WFD implementation;
  - <sup>1</sup> Develop a stronger political momentum, a sense of urgency and introduce long-term planning into the political debates on WFD implementation in order to improve its quality; and
  - <sup>1</sup> Dramatically increase investments into WFD implementation.

3. Environmental NGOs generally have insufficient capacity to fully participate in WFD implementation: Environmental NGOs not only represent a legitimate part of the public, but could also help with carrying out many of the tasks linked to the WFD implementation process. Given the low human and financial resources of most environmental NGOs, it is important that competent authorities support this work as part of their wider approach towards encouraging active involvement in WFD implementation. The NGO survey shows that the situation has slightly improved in 2004. However, encouragement or funding of NGO activities related to WFD implementation is only evident in a few countries.

4. Governments and water management authorities are reluctant to value and, thus, seek environmental NGO participation in "technical" work or communicate this work in a transparent way: The situation has only slightly improved in 2004 – mainly because of successful environmental NGO pressure. However, key aspects of WFD implementation - such as assessing pressures and impacts on the aquatic environment, the economics of water use, and the definition of the "good status objective" - are mainly dealt with as purely technical exercises, with little or no role for civil society organisations. Environmental NGOs might not always be able to handle very technical work, but some do and others could be supported to achieve this (as mentioned above). Ignoring their - or other water stakeholders' - possible role in supporting WFD implementation is part of the "old school of water management" and does not fit with the WFD requirements for open and accountable water management.

#### **Suggested follow-up action**

*Notwithstanding what has been suggested above, we would stress that public participation is crucial to increasing the effectiveness and acceptance of WFD implementation measures and, without public support, it will be difficult or even impossible to reach the WFD's objectives. Therefore, Member States and other relevant authorities need to address this problem by training their staff in dealing with the non-scientific – social – aspects of their work and by teaching them to value society's input for long-term and successful water management.*

#### **Suggested follow-up action**

- <sup>1</sup> Competent authorities, especially in regions with a structurally low level of civil society organisation, should increase information to and funding of environmental NGOs; and
- <sup>1</sup> Environmental NGOs need to include WFD implementation in existing work priorities and start exploring and making use of synergies and potentialities for other policy areas (nature conservation, biodiversity protection, sustainable farming etc...) and for the setting up of sustainability conditions for the aquatic environment.

# Annex I. Contacts and participants in the survey

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## Annex II: Questionnaire

### Questionnaire for the EEB water working group and WWF European water network: NATIONAL TRANSPOSITION & IMPLEMENTATION OF THE WFD

AUTUMN 2004

#### **RESPONDENTS PLEASE NOTE:**

- The grey boxes indicate places to give your answer
- You will probably need additional info to answer this questionnaire. For instance, if available, your national WFD transposition law
- Respondents who have also answered the former questionnaire from March 2004: please compare with your old answers to be sure your answer is coherent with the previous one, or to indicate whether the situation in your country has changed in the meantime. (Your old answers are attached to the cover e-mail).
- The first 'Snapshot' report, based on the results from the former questionnaire, can be found at <http://www.eeb.org/activities/water/11-WFD-implementation-quality-a-snapshot-EEB-May2004.pdf>

#### I. YOUR DATA

Name: .....

Organisation: .....

Country: .....

E-mail: ..... Telephone number: .....

#### II. YOUR INVOLVEMENT

1. How would you rate the priority of the WFD implementation work in your organisation?

*Please click the appropriate box:*

- Very high
- High
- Moderate
- Very low
- Low

*If you want to give an additional comment, please do so in the grey box:*

2. What are your expectations of the WFD?

*This is an open question; please write in grey box:*

3. How many days are you and your colleagues spending all together in involving yourself in the WFD implementation process in your country?

*Please click the appropriate box:*

- 5 days per week
- 4 days per week
- 3 days per week
- 2 days per week
- 1 day per week
- less than 1 day per week

*If you want to give an additional comment, please do so in the grey box:*

### III. QUALITY OF TRANSPOSITION

1. What information do you have at your disposal, when answering questions about your country's WFD transposition law?

*Please click the appropriate boxes (multiple answers possible):*

- Final transposition law
  - Draft transposition law
  - Official documents (other than final or draft law)
  - Other information (from meetings, discussions with officials, conversations with experts, etc.)

*If you want to give an additional comment, please do so in the grey box:*

2. Does the transposition law, or draft transposition law, state the **general WFD objective** to achieve “good ecological status” by 2015?

*Please click the appropriate box:*

- Yes, exactly as in WFD
  - Yes, but weakened with other objectives, namely ...  
*(please explain in grey box)*

- No, but it is, or will be, mentioned in the Programme of Measures
  - No, not at all
  - Other ...    *(please explain in grey box)*

3. The WFD contains an obligation to **prevent the deterioration of status** of water bodies. Does the transposition law state this obligation?

*Please click the appropriate box:*

- Yes, legal obligation takes effect from December 2000
  - Yes, legal obligation takes effect from date of transposition (2003/2004)
  - Yes, legal obligation takes effect with the Programme of Measures in 2009
  - Yes, legal obligation takes effect with making the Programme of Measures operational (2012)
  - No, but obligation is already established in other national law
  - No, not at all
  - Other ... *(please explain in grey box)*

4. The **Programme of Measures** (PoM), which has to be developed under the WFD, should help to prevent deterioration. However, the PoM will become operational at the end of 2012. **Does the transposition law contain measures to cover the gap between now and the end of 2012, so-called interim measures?**

*Please click the appropriate box:*

- Yes
  - No
  - Other ...      *(please explain in grey box)*

5. Does the transposition law, or subsequent regulations, establish **competent authorities** for each River Basin District?

*Please click the appropriate boxes (multiple answers possible):*

- Yes:
    - with sectoral competence, including ...
      - agriculture
      - industrial pollution
      - land use planning
      - navigation

- energy  
 others ... (*please explain in grey box*)

*Please click the appropriate box:*

- Involved in the pressures & impacts analysis  
 Informed about the pressures & impacts analysis (e.g. updates on the progress of the analysis)  
 None of the above

*If you want to give an additional comment, please do so in the grey box:*

- with individual territorial competence, covering the whole river basin district area  
 with shared territorial competence (e.g. together with local or regional authorities)
- No  
 Don't know

*If you want to give an additional comment, please do so in the grey box:*

6. Does the transposition law establish the following ... ?

*Please click the appropriate boxes (multiple answers possible):*

- Access to all background documents leading to river basin management plans (RBMP)  
 Public consultation procedures for the development of the RBMP  
 A six months consultation period for commenting on documents (such as draft RBMP)  
 Procedures to encourage active public involvement (e.g. multi-stakeholder working groups)  
 None of the above  
 Don't know

*If you want to give an additional comment, please do so in the grey box:*

2. Have the results, or interim-results, been made available by authorities to the general public?

*Please click the appropriate box:*

- Yes  
 No  
 Don't know

*If you want to give an additional comment, please do so in the grey box:*

3. How would you rate the comprehensibility and transparency of the pressures & impacts results?

*Please click the appropriate box:*

- Very good  
 Good  
 Moderate  
 Bad  
 Very Bad  
 Don't know; results are not available

*If you want to give an additional comment, please do so in the grey box:*

## IV. QUALITY OF IMPLEMENTATION

### IV.A River Basin characterisation

#### IV.A.1 Pressures and impacts (guidance document: IMPRESS)

1. The pressures & impacts analysis is to be concluded end of 2004. Have you been ... ?

#### IV.A.2 Economic analysis (guidance document: WATECO)

The **economic analysis** is to be concluded end of 2004.

**1. Have you been ... ?**

*Please click the appropriate box:*

- Involved in the economic analysis
- Informed about the economic analysis (e.g. updates on the progress of the analysis)
- None of the above

*If you want to give an additional comment, please do so in the grey box:*

**2. Have the results, or interim-results, been made available by authorities to the general public?**

*Please click the appropriate box:*

- Yes
- No
- Don't know

*If you want to give an additional comment, please do so in the grey box:*

**3. How would you rate the comprehensibility and transparency of the economic analysis results?**

*Please click the appropriate box:*

- Very good
- Good
- Moderate
- Bad
- Very Bad
- Don't know; results are not available

*If you want to give an additional comment, please do so in the grey box:*

**4. How are environmental and resource costs being taken into account in the economic analysis?**

*Please click the appropriate box:*

- Figures on environmental and resource costs are provided
- No figures are provided, but relevance of environmental and resource costs is acknowledged
- Environmental and resource costs are briefly mentioned
- Environmental and resource costs are not mentioned at all
- Don't know

*If you want to give an additional comment, please do so in the grey box:*

#### IV.A.3 Application of key principles for the first analysis and characterisation of River Basin Districts

**1. By the end of 2004, the first analysis and characterisation of River Basin Districts must be completed. (Both the pressures & impacts analysis and the economic analysis are part of this).**

In June 2004, Water Directors adopted a document called "**Principles and communication of results of the first analysis under the WFD**". The document contains five principles to guide Member States in this first analysis. (The EEB has constructed a model letter for its members to send to their national authorities, concerning these five principles and the first analysis).

**How has your country been applying these principles?**  
(The principles are treated one by one, below)

**a) Principle 1: The process and the results of the analysis should be transparent, comprehensible and all data and information used in the analysis should be made available to the public.**

**How would you rate your country in applying this principle?**

*Please click the appropriate box:*

- Very good
- Good
- Moderate
- Poorly
- Very poorly

*If you want to give an additional comment, please do so in the grey box:*

[REDACTED]

[REDACTED]

[REDACTED]

**b) Principle 2:** *The analysis helps developing a targeted monitoring network. But, risk analysis is not classification of status.*

**Has your country been applying this principle?**

*Please click the appropriate box:*

- Yes, analysis identifies and prioritises further monitoring needs
- No, monitoring is not in the focus; analysis is used to present how good or bad the state of the aquatic environment is
- Don't know

*If you want to give an additional comment, please do so in the grey box:*

[REDACTED]

[REDACTED]

[REDACTED]

**c) Principle 3:** *Use the results of the analysis to help identify and prioritise the appropriate and iterative follow-up actions for the next stages of the planning process. Ensure that results are based on precaution.*

**Has your country been applying this principle?**

*Please click the appropriate boxes (multiple answers necessary):*

- Yes, analysis leads to follow-up actions
- No, analysis does not lead to follow-up actions
- Don't know
- Yes, lack of data or uncertainty leads to precautionary assumptions
- No, precautionary principle is not being applied
- Don't know

*If you want to give an additional comment, please do so in the grey box:*

[REDACTED]

[REDACTED]

[REDACTED]

**d) Principle 4:** *Ensure a harmonised application of key issues such as the baseline scenario and the identification of heavily modified water bodies.*

**(NB: some explanation:**

- 1 'harmonised' can be interpreted as 'using one approach consistently for the whole country'**
- 1 baseline scenario =**
  - either: the predicted development of water status until 2015, excluding the implementation of the WFD**
  - or: adopting status quo in 2004 as a presumption of the water status in 2015, excluding the implementation of the WFD)**

**How is your country applying this principle?**

*Please click the appropriate boxes (multiple answers necessary):*

- Baseline scenario is status quo in 2004
- Baseline scenario includes legislated measures until 2015
- Baseline scenario includes planned but not yet legislated measures until 2015
- Baseline scenario includes predicted economic developments
- Don't know
- Preliminary identified heavily modified water bodies (HMWB) are designated as being "at risk"
- Preliminary identified HMWBs are designated as being "not at risk"
- Preliminary identified HMWBs are being designated for further action, including testing the identification as HMWB
- Don't know

*If you want to give an additional comment, please do so in the grey box:*

[REDACTED]

[REDACTED]

[REDACTED]

**e) Principle 5:** *Lack of relevant data should not be an excuse. Demonstrate that you tried. Make a 'gap analysis' and outline subsequent steps to fill in the gaps identified.*

**How is your country applying this principle?**

*Please click the appropriate boxes (multiple answers possible):*

- New monitoring data have been collected between December 2000 and now, to fill data gaps
- Data gaps have been identified
- NGOs and academic institutions have been asked to provide data
- Plans have been established to fill data gaps
- Don't know

If you want to give an additional comment, please do so in the grey box:

2. A most important part of this first characterisation is the determination of which water bodies are at risk of failing to reach good status.

**Could you get an estimate, from the responsible authorities, of the percentage of water bodies (% of area, or % of length), that are likely to be identified as being "at risk" or "at need for further information/characterisation"?**

Please click AND FILL IN the appropriate boxes:

- No, not possible to get these data (yet)
- Yes, estimated percentages are:

Rivers:

Lakes:

Coastal waters:

**If you have been able to give percentages, do you agree or disagree with them and why?**

- Agree, because ... (please explain in grey box)

- Disagree, because ... (please explain in grey box)

If you want to give an additional comment, please do so in the grey box:

3. Could you get an estimate, from the responsible authorities, of the percentage of water bodies (% of area, or % of length), that are likely to be identified as "Heavily Modified" or "Artificial"?

Please click AND FILL IN the appropriate boxes:

- No, not possible to get these data (yet)
- Yes, estimated percentages are:

Rivers:

Lakes:

Coastal waters:

If you want to give an additional comment, please do so in the grey box:

#### IV.B Intercalibration - Setting ecological standards

1. Have you been involved in the intercalibration process?

Please click the appropriate box:

- Yes
- No

If you want to give an additional comment, please do so in the grey box:

2. Have your authorities been providing the intercalibration data on request?

Please click the appropriate box:

- Yes
- No
- Haven't asked
- Don't know

If you want to give an additional comment, please do so in the grey box:

3. How would you judge the classification of your country's sites in the intercalibration register?

Please click appropriate box:

- Mainly correct
- Mainly incorrect
- Don't know
- Other ... (Please explain in grey box. NB: if possible, name sites!)

#### IV.C Public Participation

1. Has your government been providing you with up to date information about the ongoing work for the WFD (e.g. background documents, informative e-mails)?

*Please click the appropriate box:*

- Yes
- Yes, but irregularly
- Yes, but only after asking for it
- No

*If you want to give an additional comment, please do so in the grey box:*

2. How would you judge the pro-activity of your government in involving NGOs in the WFD process (e.g. requesting NGOs for comments; organising workshops and meetings for NGOs to attend)?

*Please click appropriate box:*

- Very good
- Good
- Moderate
- Poorly
- Very poorly

*If you want to give an additional comment, please do so in the grey box:*

3. Has your government been asking you to provide input or present your position in the course of the WFD process?

*Please click the appropriate box:*

- Yes
- Yes, but irregularly
- Yes, but only after asking for it
- No

*If you want to give an additional comment, please do so in the grey box:*

4. Have you been participating in any kind of forum, conference or meeting concerning the WFD implementation?

*Please click the appropriate box:*

- Yes
- Yes, but irregularly
- Yes, but only after asking for it
- No

*If you want to give an additional comment, please do so in the grey box:*

5. In your opinion, has the attitude of your authorities towards public participation improved since the introduction of the WFD?

*Please click the appropriate box:*

- Yes, very much
- Yes, a bit
- No, not really
- No, absolutely not

*If you want to give an additional comment, please do so in the grey box:*

**Thank you for having taken the effort to answer this questionnaire!**

*For further information please contact:*



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ASSOCIATION INTERNATIONALE SANS BUT LUCRATIF



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