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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: SWD(2019) 440 final

Subject: COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE FITNESS CHECK
of the
Water Framework Directive, Groundwater Directive, Environmental Quality
Standards Directive and Floods Directive
Directive 2000/60/EC of the European Parliament and of the Council
establishing a framework for the Community action in the field of water
policy
Directive 2006/118/EC of the European Parliament and of the Council on
the protection of groundwater against pollution and deterioration
Directive 2008/105/EC of the European Parliament and of the Council on
environmental quality standards in the field of water policy, amending and
subsequently repealing Council Directives 82/176/EEC, 83/513/EEC,
84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive
2000/60/EC of the European Parliament and of the Council
Directive 2007/60/EC on the assessment and management of flood risks

Delegations will find attached document SWD(2019) 440 final.

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EXECUTIVE SUMMARY OF THE FITNESS CHECK
of the

Water Framework Directive, Groundwater Directive, Environmental Quality Standards Directive and Floods Directive

Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy

Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration

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

Directive 2007/60/EC on the assessment and management of flood risks

{SEC(2019) 438 final} - {SWD(2019) 439 final}

Executive summary

This fitness check is a comprehensive policy evaluation of the following directives:

- the Water Framework Directive (WFD);
- the Environmental Quality Standards Directive (EQSD);
- the Groundwater Directive (GWD);
- the Floods Directive (FD).

It assesses whether the Directives are fit for purpose by examining their performance against five criteria set out in the Commission's Better Regulation agenda: effectiveness, efficiency, coherence, relevance and EU added value.

The results for the Water Framework Directive, complemented by the Environmental Quality Standards Directive and the Groundwater Directive, are mixed. On the one hand, the WFD has been successful in setting up a governance framework for integrated water management for the more than 110,000 water bodies in the EU, slowing down the deterioration of water status and reducing (mainly point source) chemical pollution. On the other hand, no substantial progress in water bodies' overall status has been made between the first and the second river basin management cycles. The Directive's implementation has been significantly delayed and less than half of the EU's water bodies are in good status, even though the deadline for achieving this was 2015, except for duly justified cases. For the Floods Directive it is too early to draw conclusions, as its first implementation cycle only started in 2016, but this fitness check finds that the Directive has improved flood risk management.

Good water management is important for the planet, people and the economy

Water is an essential societal need. The objectives of the Directives are as relevant now as they were at the time of the adoption of the Directives, if not more. They contribute to achieving a range of sustainable development goals. Water is also of great value in the EU economy. The EU's water-dependent sectors generate €3.4 trillion, or 26% of the EU's annual gross value added, and employ around 44 million people. EU water policy is very important to European citizens. The public consultation received more than 370,000 responses in total, which is an exceptionally high number.

Factors that have contributed to and stood in the way of achieving progress

Factors that have contributed to the effectiveness of the Directives in progressing towards their objectives include:

- the list of priority substances;
- the (binding) cross-references to the WFD's objectives in other EU policies;
- EU funding;
- the widely applicable non-deterioration principle; and
- the Directives' monitoring requirements.

One of the factors that hindered the achievement of better results was the fact that it proved more difficult than envisaged to establish a governance framework that takes into account the specific conditions in each Member State. In addition, good status depends not only on mitigation measures to address current pressures, but also on restoration measures to address pressures from the past, such as hydromorphological changes and chemical pollution. Finally, good status of water bodies also critically depends on the full implementation of other pieces of EU legislation, such as the Nitrates Directive and the Urban Waste Water Treatment Directive, as well as better integration of water objectives in other policy areas such as agriculture, energy or transport. This has not happened yet at the scale necessary.

Lack of financial resources is another factor that stands in the way of achieving better results. The measures proposed by Member States are often determined by what can be delivered with

the budgets and policies already in place, rather than being the result of an integrated approach. Member States tend to rely on easy technological fixes that address point source pollution, while leaving diffuse sources of pollution largely unaddressed. This leads to ineffective implementation, because the approach taken is not based on the pressures and impacts analysis and monitoring data, which would help Member States determine what action is needed to target the pressures on water bodies and determine the scale of the action needed. For the Water Framework Directive, studies on the value of ecosystem services and the restoration of rivers indicate that: (i) the benefits of measures to improve the status of water bodies outweigh the costs; and (ii) citizens' willingness to pay exceeds the current expenditure on water measures. Insufficient use is being made of the principle of cost recovery, while exemptions based on disproportionate costs are not always adequately justified. For the Floods Directive, studies show that the cost/benefit ratio of flood protection measures is positive.

There is a trade-off between enabling location-specific water management and enforceability

The analysis in this fitness check finds that there is a trade-off between the flexibility of the Directives, which is needed to enable Member States to implement the most cost-effective measures, and the complexity that this flexibility creates, which forms an impediment to enforceability and achieving better results.

Many of the pressures on water, and the measures required to mitigate them, are location-specific. This is why, in line with the principle of subsidiarity, the Directives covered by this fitness check have introduced an integrated water management approach which leaves considerable discretion to the Member States to identify location-specific measures to meet the objectives, while at the same time ensuring sufficient harmonisation and a level playing field. At the same time, many water issues are transboundary: all Member States, except Malta and Cyprus, share international river basins, meaning that changes in one Member State can have an impact on hydrology or water quality in other Member States.

The complexity of the Water Framework Directive is a consequence of the need for location-specific measures. In practice, however, this is found to be a factor that stands in the way of enforceability and of holding Member States accountable for the insufficient ambition of their water policy. The extensive requirements for the river basin management plans and for public consultation are necessary to keep the policy discretion provided for by the WFD in check and provide public transparency about water policy and actions. There is no evidence of excessive administrative burden in terms of monitoring and reporting requirements. Having said that, citizens, Member State representatives, environmental groups and the water sector have indicated that there is room for improvement, both in the accessibility of information and in the level of detail. Efforts are being made to address these issues, to simplify the reporting requirements and to lower the administrative burden, for example through improved electronic reporting.

Contrary to traditional command-and-control approaches, the Water Framework Directive's innovation was to put the needs of a healthy ecosystem as the objective to be reached and requires doing what is necessary cost-effectively across all sectors and pressures to reach this objective. The WFD's governance mechanism is therefore designed in such a manner that it enables Member States to bring together all the relevant knowledge, based on monitoring and stakeholder participation, to set up management plans based on river basins and to collaborate across borders. One key achievement is that this has significantly increased the knowledge base about the EU's aquatic ecosystems, which is also used to inform other policies. The monitoring of trends of certain pollutants has, for the first time, provided Member States with the necessary information to manage the presence in the water environment of pollutants which are not or no longer authorised, e.g. from illegal use or from run-off.

In sum: the Directives are fit for purpose, with some scope to improve

The analysis of the evidence and the stakeholder feedback allow for the conclusion that the Directives are largely fit for purpose. The Directives have led to a higher level of protection for water bodies and flood risk management than could have been expected without them. The fact that the WFD's objectives have not been reached fully yet is largely due to insufficient funding, slow implementation and insufficient integration of environmental objectives in sectoral policies, and not due to a deficiency in the legislation.

Future outlook — lessons learned

Based on the findings, progress towards good status can be expected to be slow but steady. The slow rate of progress can be attributed to the factors outlined above, in addition to long time lags for nature to respond to measures. It is also more difficult to make progress visible due to the 'one-out-all-out' principle underpinning comprehensive protection of water bodies and ecosystems, under which good status is not granted if any of the relevant parameters are less than good. As for future challenges, this fitness check finds that the Water Framework Directive is sufficiently prescriptive with regard to the pressures to be addressed, and yet flexible enough to reinforce its implementation as necessary with regard to emerging challenges not mentioned in the Directive such as climate change, water scarcity and pollutants of emerging concern (e.g. micro-plastics and pharmaceuticals).

The key area where there is room to improve and to achieve better results is on chemicals. While there is evidence that the WFD, EQSD and GWD have led to reduced chemical pollution of the EU's waters, the analysis points to three areas in which the current legislative framework is sub-optimal:

- the differences between the Member States are much larger than what can be explained by national differences (variability in lists of local pollutants (river basin-specific pollutants and pollutants posing a risk to groundwater bodies) and the limit values they should not exceed);
- updating the list of priority substances (i.e. adding or removing substances and the corresponding quality standards) is a lengthy process, partly because it takes time to gather the necessary scientific evidence and partly because of the ordinary legislative procedure;
- the EQSD and GWD evaluate the risk to people and the environment based mainly on single substances, not taking into account the combined effects of mixtures, and inevitably cover only a tiny proportion of the substances present in the environment.

The next round of programmes of measures will play a key role in ensuring the necessary progress towards achieving the environmental objectives by the 2027 deadline. Given that currently more than half of all European water bodies are under exemptions, the challenges for Member States are more than substantial. After 2027, the possibilities for exemptions are reduced, as time extensions under Article 4(4) can only be authorised in cases where all the measures have been put in place but the natural conditions are such that the objectives cannot be achieved by 2027. The Commission will need to continue to work with Member States and help them improve implementation of the Directives at the lowest possible cost, e.g. by sharing best practices on cost recovery, reduction of pollutants at source, green infrastructure and others.