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FORTUM'S POSITION ON THE REVISION OF THE WATER FRAMEWORK DIRECTIVE

Fortum supports the objectives of the Water Framework Directive. Fortum has actively contributed to the long-term and systematic work on river basin management in Finland and Sweden in strong cooperation with authorities and relevant stakeholders. Improving the status of water bodies remains an important objective that still requires further measures.

At the same time, the current operating environment is challenging for the economic operators, mainly due to the strict interpretations of the current regulatory framework and insufficient flexibilities. The Weser ruling from 2015 has resulted in an operating and investment environment that sets significant constraints on point-source operators, while limited impact on diffuse pollution from agriculture or forestry, which in countries like Finland and Sweden, is the main factor affecting water status. Also, the interpretations of the current regulation that have resulted in several infringement procedures towards Member States are impacting on the operating environment.

Fit-for-purpose legislation is needed to boost the competitiveness of the European industry. Fortum considers that the revision of the Water Framework Directive, mentioned in the ReSourceEU Action Plan, should aim for targeted simplification that

- **allows a broader use of flexibilities to manage the impacts on the permitting and investment environment by amending article 4(7)**
- **in addition to the critical raw materials, focuses also on similar needs of other sectors**
- **clarifies the interpretations of the current regulation that has resulted in several infringement procedures towards Member States**
- **maintains the directive's key objectives**

The focus areas of Fortum's strategy are delivering reliable energy to our customers and driving decarbonisation in industries. Fortum has a strong position in low-carbon energy production in the Nordic region, and we aim to find solutions for its industrial customers to reduce their carbon footprint. The objective is to develop and build new low-carbon energy together with strategic customers and to actively develop projects that enable future growth.

Fortum has conducted a two-year study on the future prerequisites for new nuclear power. The study examined the commercial, technological, and societal requirements for both small modular reactors and traditional large reactors. Fortum also aims to develop its hydropower production, pumped storage hydro and promote the utilisation of clean hydrogen in the Nordic countries together with industrial customers.

The impacts of these various projects on waters vary. Potential adverse effects are addressed already during the planning phase. It is essential that the regulatory framework does not prevent or weaken the investment opportunities described above.

Allow a broader use of flexibilities by amending article 4(7)

The current exemption in article 4(7) should be amended in the upcoming revision to better reflect the challenging operating environment. Firstly, **the exemption should allow impacts arising from pollution (paragraph 1)**. In its current wording, article 4(7) allows exemptions only resulted from new modifications to the physical characteristics of a surface water body or alterations to the level of bodies of groundwater. Secondly,

10 April 2026

paragraph 2 for sustainable human development activities should be made more flexible, not limiting the exemption only to deterioration from high status to good status.

To better reflect the changes in the operating environment, **climate change mitigation and security of supply should be added to condition c) in article 4.7.** In addition, to reduce unnecessary administrative burden, **condition d) should be deleted.** Other options are already assessed for example in the environmental impact assessment. The **provision in condition b) to review the objectives every six years is not reasonable for this exemption and should therefore be deleted.**

Focus on similar needs of other sectors in addition to critical raw materials

Fortum understands the need to promote circularity and access to critical raw materials in the EU. At the same time, **similar bottlenecks linked to permitting and the Water Framework Directive exist also for other sectors.** The upcoming revision should **therefore assess the impacts and the needs of different sectors on a broader scale.** We see that **similar targeted amendments** that promote access to critical raw materials could also boost investments in the energy industry and the decarbonisation of industries.

Clarify interpretations related to infringement procedures

Article 11(3) of the directive sets out basic measures that the programme of measures of a river basin district shall include. The basic measures include, among other things, the control of activities affecting waters, as well as periodic review and, where necessary, an update of the controls.

It should be clarified that the directive's obligation for periodic reviews of controls doesn't require a periodic review and possible update of each individual permit. Periodic reviews of individual permits would put a heavy burden on relevant authorities and would not be in line with EU's goals of streamlining permitting procedures.

The requirement, included among the basic measures, to review and update controls is to our understanding **directed at the programme of measures that is part of the river basin management plans.** In this regard, it is noteworthy that the wording of the article specifically requires the review and possible update of controls, not the periodic review of individual decisions. **The article provides for controls and their review also in relation to activities that do not require a permit** (including diffuse pollution), and the article also refers, with respect to these basic measures, to the requirement to review and update controls where necessary. The Water Framework Directive likewise **contains no provisions on how the basic measures included in the programme of measures must be implemented and applied procedurally in the context of river basin management planning.** Instead, for example, the procedure for reviewing existing permits is governed by each Member State's national environmental legislation on permitting.

Maintain the directive's key objectives

Fortum is **committed to ambitious water management** in its operating countries and finds it important that **the key objectives of the Water Framework Directive are maintained.** We believe that the **targeted amendments** proposed in this position paper **wouldn't jeopardize the objectives of the directive but rather align the objectives with other policy objectives and make the operating environment smoother and more equal for all operators.**

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