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FITNESS CHECK OF THE EU WATER FRAMEWORK

Fortum's views for the public consultation

The Water Framework Directive (WFD) is the most comprehensive instrument of EU water policy with the main objective to protect and enhance EU water resources to achieve good status. The implementation of the directive during the past 18 years has succeeded in establishing a common system for water management and contributed to an improvement of the status of European surface waters and groundwater.

WFD is however a complex set of legislation. Besides the directive itself, numerous EU-level implementation acts, guidance documents and technical reports have been produced in the framework of the common implementation strategy (CIS) to assist stakeholders in the implementation of the legislation. In addition to the CIS documentation, member states have produced national guidance documents. WFD has therefore to be considered as a package of legislation where all subsequent parts based on the directive are interlinked.

In our view, the directive itself has proved well-defined and reasonably well fit for its purpose, but the challenges are related to the implementation acts and guidance documents. This legislation includes tools for the member states to strike a balance between environmental, climate and socio-economic policy goals. However, it seems that finding this balance has been challenging in many member states.

In general we consider WFD as a well-functioning policy tool, but we have however recognized several areas for improvement in the implementation of the existing directive, especially related to the implementation acts and guidance documents.

WFD and hydropower

Fortum considers the WFD mainly from the hydropower point of view. WFD has an influence on the current hydropower operations and development of new hydropower. The impacts of WFD on hydropower generation are often related to possible conflicts between energy and environmental policy objectives ie. generating renewable and carbon free electricity from hydropower and conserving water courses.

Hydropower plays a key role in supporting Europe's clean energy transition, reaching its international climate objectives and delivering crucial services for European citizens. In addition to its important role in the energy system, hydropower also plays an important role in terms of water management, flood protection and prevention of water scarcity.

WFD gives member states tools to safeguard important specified uses of waterbodies, for example hydropower production. However, a lot of renewable hydropower generation, storage and flexibility have been lost due to the implementation of the directive in several member states. Moreover there is a risk for additional losses. It is essential

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to fully utilise the possibilities given in WFD to safeguard hydropower generation, storage and flexibility.

Although the WFD plays an important role in hydropower, we do not fully recognize these challenges in the consultation questionnaire. Therefore we want to bring our concerns for the attention of the Commission in this separate position.

Coherence required between WFD and other policies

The WFD, as important legislation for European water bodies, was enacted already before climate change became a fundamental part of EU policy making. Therefore, the value of hydropower, in terms of contributing to both the ambitious targets for renewable energy and emission reduction as well as contributing to climate change adaptation by using reservoirs for flood and drought management, has not been sufficiently reflected into the WFD. Although the WFD enables reconciliation of the targets for the protection of water bodies with other important policy targets, this has seldom been implemented in practice.

As a consequence, the implementation of the WFD can unduly reduce electricity generation from existing hydropower and limit the future potential for new or upgraded hydropower. In other words, it can weaken an important source of renewable flexibility, storage, power production and water management, which would be detrimental to achieving Europe's climate ambitions and challenges.

There is an obvious need for better policy coherence between the WFD and other EU climate and energy policy goals and legislation. This should also be reflected in the new Commission's internal shared responsibility regarding the upcoming evaluation of the WFD. To continue letting hydropower play its important role in Europe's energy supply, it is crucial that DG ENER takes an active part in the evaluation, together with DG CLIMA and DG ENVI.

Case-by-case environmental measures needed for each hydropower plant

Hydropower's impact on the environment needs to be mitigated to the best possible degree. However, each hydropower plant is tailor-made to local conditions and needs. Case-by-case best practice and cost-efficient environmental measures instead of standard solutions should be implemented to prevent ecologically unsatisfactory solutions, undue losses in electricity production and unnecessary costs. The costs and benefits of implementing measures have always to be weighed to avoid disproportionate costs.

It is also necessary to fully recognize the subsidiarity principle for the implementation of the WFD by allowing member states to consider their national situation and apply good practice procedures on a case-by-case basis.

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HMWB classification important for hydropower

The designation of Heavily Modified Water Bodies (HMWB) is one of the cornerstones in the WFD, giving due consideration also to socio-economic needs. The key principle of the WFD is that water bodies where hydropower plants exist are designated as HMWB and the target level is then different from the one in a water body that is in a natural state. The mitigation measures should not result in a significant adverse effects for hydropower production.

Taking this into account, it is hard to understand some of the Commission's recommendations to member states in the recent staff working document "*Report on the progress in implementation of the Water Framework Directive*". In the report, the Commission calls for obligatory measures to HMWB, e.g. in the recommendations for hydropower in Finland: "The revision of all existing hydropower permits should be done to ensure the achievement of WFD objectives, in particular in relation to ecological flow, fish passes and other mitigation measures".

It is important to keep HMWB designation as a key category also in the future for the integration of ecological, human and economic aspects. In addition, it is important to keep hydro morphological quality elements as supporting criteria since they serve as points of reference for the classification of water bodies.

National implementation of HMWB not in line with definitions of WFD

One of the key challenges in achieving good qualitative and/or quantitative status of surface/groundwater is that national implementation of HMWBs in some regions of member states is not in line with definitions of HMWB in the directive (Article 4.3). Good ecological potential is not reached, because authority has either underestimated the significant adverse effect on specified use or the benefits of possible mitigation measures to biological quality elements are overestimated in assessment. Assessment has been made using only rough expert judgement. This should be corrected by better assessment in the next river basin management plan (RBMP). Lack of data and use of rough expert judgement in classification have led to wrong classifications and wrong prioritization of measures taken to the program of measures.

Stakeholder involvement is essential in HMWB designation and classification. Stakeholders do often have the best knowledge on river hydro morphology, measures already implemented, possibility to carry out additional measures and studies carried out on the ecology of the waterbody.

Socio-economic and ecological assessments have to be improved

Environmental measures are needed to reach the targets in the WFD. Through assessment and research, effective and economically reasonable mitigation measures suitable for a specific hydropower plant can be found. Such measures should lead to signif-

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icant, measurable improvement for the environment and not result in a disproportionate impact on hydropower production. At the same time, it is important that the measures do not impair dam security and flood mitigation.

Setting environmental measures requires a comprehensive assessment of their benefits and adverse effects. The main challenge is usually a missing cost-benefit analysis of the mitigation measures on hydropower. In some member states, generation losses and maintenance costs are often not duly taken into account in the estimated overall costs.

If the benefits and costs related to the proposed environmental measures are not weighted properly, there is a high risk, not only of significant losses in renewable electricity generation, flexibility and storage capacity, but also of implementing measures with limited ecological improvements at a high cost to society.

In the implementation of the WFD, the effective application of holistic economic assessments of hydropower should be enforced in order for the WFD to achieve its goal to ensure sustainable water use, without undermining the achievement of climate and energy policy targets.

CIS guidance to be streamlined

CIS guidance documents have to some extent been helpful in the practical implementation of EU water policy. There are already 36 guidance documents. The current guidance documents are very complex and contain several general standards that are not suitable for hydropower.

Recently there has been a tendency to develop CIS guidance documents setting new more stringent obligations instead of making instructions in line with WFD text. However, CIS has no mandate to make legislation and therefore CIS documents cannot be legally binding. If there is need to change WFD, it shall be done in normal EU legislation process.

Therefore, it is important to review and reduce the number of documents as well as to simplify them and to remove general provisions, in order to avoid ambiguity and counterproductive effects.

For additional information:

Jukka Muotka, jukka.muotka@fortum.com +358504532324
Kari Kankaanpää, kari.t.kankaanpaa@fortum.com +358504532330