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1 Administrative Arrangements

1.1 Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Federal Ministry of Agriculture, Forestry, Environment and Water Management (Lebensministerium)</td>
<td></td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Lebensministerium</td>
<td>Landeshauptmann</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Lebensministerium</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(surveillance &amp; operational monitoring) and Landeshauptmann (investigative monitoring).</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Lebensministerium</td>
<td></td>
</tr>
<tr>
<td></td>
<td>State-level authorities´ administrative bodies – mainly district administrative authority (Bezirksverwaltungsbehörde), sometimes Landeshauptmann.</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>84 county administrations and 15 statuary cities. Sometimes also</td>
<td>Police Officers</td>
</tr>
</tbody>
</table>
The main competent authority responsible for the implementation of the WFD is the Federal Ministry of Agriculture, Forestry, Environment and Water Management (the "Lebensministerium").

The National Water Management Plan (NGP) was published in 2010; since then, no changes in administrative arrangements are reported.

### 1.2 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

The Lebensministerium is responsible for surface waters (lakes/rivers) and groundwater.

### 1.3 Authorities involved in preparing and approving the RBMPs

The authority responsible for RBMPs is mainly the Lebensministerium at the federal level, in close cooperation with the state-level "Landeshauptmann" as being responsible for some water management issues at the district level.

#### 1.3.1 Coordination mechanisms to deal with multiple authorities

The coordination between the Lebensministerium and the Landeshauptmann with regard to drawing the NRP follows a formalized procedure laid out in §55h to §55m of the Wasserrechtsgesetz of Austria. The procedure involves various steps in which the two authorities and other stakeholders (such as other federal ministries and the Nature Protection Agencies of the states) mutually comment and amend the plan, with very formalized deadlines and timings for participation measures.

### 1.4 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

### 2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

#### 2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.

The competent authority (Lebensministerium) is responsible for the Surveillance and Operational Monitoring, according to the "Gewässerzustandsüberwachungsverordnung" (BGBl. 479/2006); the investigative monitoring falls under the responsibility of the Landeshauptmann. It is unclear, however, if the monitoring in either case is undertaken through own staff or contracted services.
Different authorities are responsible for surveillance, operational and investigative monitoring, as outlined in the table below.

**Table 2: Summary of responsible authorities for surveillance, operational and investigative monitoring**

<table>
<thead>
<tr>
<th>Surveillance Monitoring</th>
<th>Lebensministerium.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operational Monitoring</td>
<td>Lebensministerium.</td>
</tr>
<tr>
<td>Investigative Monitoring</td>
<td>Landeshauptmann.</td>
</tr>
</tbody>
</table>

Because different authorities are responsible for the three types of monitoring, there is a requirement for coordination.

The Landeshauptmann as responsible authority routinely undertakes the investigative monitoring according to state programmes; any results that indicate that environmental targets are endangered are reported to the Lebensministerium.

Lebensministerium and Lebensministerium are responsible for monitoring in all water categories (rivers, lakes, transitional, coastal, groundwater).

## 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

### 3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

**Table 3: Summary of responsible authorities for different directives & policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding the UWWT Directive; for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding the UWWT Directive; for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
<tr>
<td>Directive / Policy</td>
<td>Responsible Authority</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding the Nitrates Directive; for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding the Bathing Waters Directive; for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding the Drinking Water Directive; for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding the Floods Directive; for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding biodiversity/nature and habitat protection policies (CITES, Natura2000 etc.); for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
<tr>
<td>Climate</td>
<td>The Lebensministerium (i.e. the WFD competent authority) at the federal level regarding national climate change policies (CITES); for implementing measures and certain provisions, the respective lower level (medium-scale projects and regulations at state level: the Landeshauptmann; small-scale projects and enforcement: the district administrative authority/the local level).</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority.

The main interaction of the lower levels with the competent authority is regulated by law, i.e. through clearly assigning competencies and obligations of information etc.
### 3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below:

#### Table 4: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>The competent authority at federal level for Agriculture is the Lebensministerium. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level(smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>The competent authority at federal level for Drinking Water is the Lebensministerium. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level(smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td></td>
<td>The competent authority at federal level for Wastewater is the Lebensministerium. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level(smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.</td>
</tr>
<tr>
<td>Energy</td>
<td>The competent authority at federal level for Renewable Energies including hydropower is the Lebensministerium, for other forms of energy the Ministry for the Economy, Family and Youth. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level(smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.</td>
</tr>
<tr>
<td>Transport</td>
<td>The competent authority at federal level for transport is the Ministry for Transport, Innovation and Technology. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level(smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.</td>
</tr>
</tbody>
</table>
agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level (smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.

**Industry**  
**IPPC**  
The competent authority at federal level for industry (IPCC and non-IPCC) is the Ministry for the Economy, Family and Youth. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level (smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.  
**Non IPPC**  
The competent authority at federal level for industry (IPCC and non-IPCC) is the Ministry for the Economy, Family and Youth. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level (smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.

**Mining**  
The competent authority at federal level for mining issues is the Ministry for the Economy, Family and Youth. Representing a federal governance system, Austria has many levels of governance; accordingly, each driver is not only represented by the federal-level agency, but has lower-level agencies/authorities subordinated, each responsible for certain questions regarding lower level (smaller-scale problems, differing from policy sector to policy sector. For the purpose of this question, however, these different levels are treated as being one authority.

Because there are different authorities, there is a need for coordination with the main WFD competent authority.

For interactions between authorities of "the same branch of governance", see the section on integration with other directives/policies; for coordination/communication between authorities of the same level (in this case: between federal ministries), there is the "Ministerrat", i.e.: the Council of Ministers, headed by the Prime Minister.

**4 Participation**  
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.
4.1 Ongoing involvement of stakeholders and monitoring of implementation

There are formal (and on-going) processes for involving key users and other stakeholders in the further implementation of the Directive.

The processes itself are not described in detail; it is only mentioned that after finalising the public participation process (leading to the National Water Management Plan), the public will further be involved through both information and participation.

No advisory/ consultative bodies have been established to monitor implementation

The following authorities/sector representatives/ other stakeholders are involved in the implementation of the Directive and the preparation for second cycle:

The respective authorities on the federal, state and local level for legislation and implementing the measures; the second Management Plan will again be drafted by the Lebensministerium, in cooperation/coordination with the Landeshauptmann.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD. In addition, no significant changes made to the existing authorities.

5.2 Organisation structure

The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan (RBMP)

The NGP is an ordinance. § 1 of the NGPV 2009 declares chapters 5 (environmental objectives) and 6 (water management system – wasserwirtschaftliche Ordnung) to be binding to the extent stipulated in that ordinance. Chapter 6 on the water management system includes the Austrian programme of measures.

In Austria, the RBMP is the national water management plan (Nationaler Gewässerbewirtschaftungsplan - NPG). § 55c (1) of the Water Management Act (WRG\(^1\)) stipulates that the NGP is adopted by the Federal Minister of Agriculture, Forestry, Environment and Water Management (Federal Environment Minister) by virtue of an ordinance (NGPV 2009). The programme of measures is part of the NGP.

The NGP shall be published at the website of the ministry and be announced in the Official Journal (OJ) and in the official journal to the Wiener Zeitung (a daily Austrian newspaper) that includes official publications of the Republic of Austria.

If the measures of the national RBMP are not sufficient to ensure compliance with the environmental objectives as stipulated by §§ 30a, 30c and 30d WRG, the presidents of the nine federal states (Länder) are obliged to adopt regional programmes of measures (§ 55g WRG).

6.1.1 Formal mechanisms of consultation

The Federal Minister of Agriculture, Forestry, Environment and Water Management is required to involve the presidents of the Länder (Landeshauptleute) that are concerned by the NGP as follows: when carrying out the current status analysis the Federal Minister of Agriculture, Forestry, Environment and Water Management has to send a draft of this analysis to these Länder presidents nine months before Austria must report to the EU Commission on its NGP. The presidents of the Länder must assess this draft on the basis of the available environmental data of the region and complement it before resending it to the Federal Ministry of Agriculture, Forestry, Environment and Water Management within six months. They must describe, inter alia,

- surface waters or groundwater that are at risk to not comply with the environmental objectives (risk analysis);
- the further developments in the format of a trend scenario;
- and all cases, in which projects with effects on the water status have been approved and all measures taken to avoid or minimize negative impairments.

The Federal Minister of Agriculture, Forestry, Environment and Water Management must then revise the draft of the current status analysis taking into account the comments of the presidents of the Länder and, if necessary, amend it.

Pursuant to § 55m WRG the Federal Minister of Agriculture, Forestry, Environment and Water Management must involve other stakeholders as follows: for the purpose of an active participation of all interested parties, specific documents for the elaboration, the

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revision and the update of the NGP have to be made available to public authorities. In addition, the general public must be informed via internet, the Austrian Water Information System and the competent Länder authorities. Information on these public consultations must be published in one wide spread newspaper, in official publications and in the internet. Pursuant to § 55m(6) WRG the drafts of NPGs must be coordinated with neighbouring MS as far as an impact on the environment of the other MS is likely to occur. According to § 55m(2) WRG the Federal Minister of Agriculture, Forestry, Environment and Water Management has to take into account the statements, comments of the public consultation and results of cross-border consultations in the elaboration of the NGP. Upon request, access must be given to any background document and information that is part of the elaboration of the NGP.

According to § 55m(1) WRG, the same procedure applies to the review and the update of the NGP.

6.1.2 Legal effect
The NGP is an ordinance. It stands below the Austrian Constitution and the federal laws (e.g. the WRG). Hence, it must comply with these legal acts.

The NGP stands above water-related administrative decisions and local planning acts (regional ordinances and decisions; see also below).

The NGP is a federal ordinance and as such is binding on the whole federal territory. It must comply with the federal Constitution and the federal laws (the NGP specifically with the WRG). Federal administrative decisions and Länder ordinances and Länder administrative decisions need to comply with the NGP.

Generally the NGP, it is not directly binding to private persons but it has a directly binding effect on the administration. Therefore, only the administrative decision which, for example, authorises actions of private persons may be challenged before the courts, if it is contrary to the NGP.

6.1.3 Legal status in relation to individual decisions
As mentioned above, the Constitution generally requires that administrative decisions must be compatible with ordinances and thus with the provisions of the NGP, in particular with the environmental objectives. Such decisions include permits for industrial installations, hydropower concessions as well as permits for the abstraction for agriculture. This obligation also applies to existing permits. Fleshing out the Constitution, § 55g(3) WRG stipulates that decisions must be in compliance with the NGP (programme of measures).

Taking into account the current status analysis according to § 55d WRG and other criteria, the competent authorities (depending on the type of the permit either the regional administrative authorities or the presidents of the Länder or the Federal Minister of Agriculture, Forestry, Environment and Water Management) must revise or withdraw water-related permit decisions, if projects fail to comply with the public interest (as defined in § 105 WRG) including the environmental objectives (§ 21a (1) WRG).

The term “public interest” is more clearly defined in § 105 WRG, which refers to the “ecological status” of the water and thus to the same term as used in Article 2 point 21 of the Water Framework Directive 2000/60/EC (see also the judgement of the Administrative Court - Verwaltungsgerichtshof, VwGH, VwSlg. 17075 A/2006).
The WRG does not require the competent authorities to revise the permitting decision within a specific timeline. However, § 21a WRG refers – as mentioned above – explicitly to the current status analysis as stipulated in § 55d WRG that is the basis for the adoption of the NGP. If the competent authority, while carrying out the current status analysis, realises that an installation is not sufficiently contributing to reaching the environmental objectives, it must proceed in conformity with § 21a WRG and revise the permit.

Furthermore, pursuant to § 55f (8) WRG the competent authorities must analyse the permits and proceed in accordance with § 21a WRG, if the monitoring of the surface water status, groundwater status or protected areas indicates that the environmental objectives will not be reached as scheduled.

Finally, according to § 33d (1) WRG, the presidents of the Länder must issue an ordinance with a rehabilitation programme, if a surface water body shows a worse status than that determined in an ordinance according § 3a (2) WRG, which stipulates the environmental objectives for surface waters. In Upper Austria, for example, the presidents issued such an ordinance, OJ No. 95/2011 of Upper Austria. § 1 of this ordinance stipulates that any holder of a water-related permit in a specific area must implement the rehabilitation programme set out in §§ 3 to 4 of the ordinance not later than 22 December 2015. The rehabilitation measures are supposed to ensure the good ecological status of the respective water bodies in conformity with the NGP.²

The following subsections describe how the RBMP is included in the permitting decision process: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

According to § 99 (1) WRG, the presidents of the Länder are competent at first instance for permitting hydropower installations with a maximum power production of more than 500 kW unless § 100 WRG provides otherwise. Pursuant to § 100 WRG the Federal Minister of Agriculture, Forestry, Environment and Water Management is competent for permitting hydropower plants on the Danube and other major hydropower plants. The permit is granted by an administrative decision and as such must be compatible or made compatible with the NGP.

Relevant case law includes a decision of the Administrative Court (VwGH) of 28 January 2010, 2009/07/0038, which confirms that the NGP shall be the basis of a permit for a hydropower installation. It should be noted that in this case the NGP existed only as a draft; nevertheless, the authority justified its decision already on the basis of this draft. It emphasised the obligation of the Member States to interpret its law in the light of EU, here in particular the Water Framework Directive. The VwGH confirmed the decision of the authority.

§ 21a WRG and § 55f (8) WRG also apply to hydropower installations.

² See also the ordinance of the president of Tirol, OJ of Tirol 133/2011.
Abstraction for agriculture

Section 2 of the WRG regulates the use of water and the conditions for the permit for this use. According to § 21 (1) WRG the abstraction of water for irrigation is subject to permits which are granted for a maximum period of twelve years. The permit must determine the volume of water used and how the water is used in accordance with the requirements of the public interest as defined under § 105 WRG (see above). Thus, it is ensured that the environmental objectives are protected.

It is noted that § 21a WRG and § 55f (8) WRG also apply to the abstraction of water for irrigation.

IPPC and other industrial installations

The permit for an IPPC installation or for the discharge of waste water from other installations is an administrative decision which must be compatible with the NGP and must comply with the constitutional principle of the hierarchy of norms, respectively § 55g(3) WRG.

According to § 81b GewO (Federal Commerce and Industry Regulation Act) the permit of an IPPC installation must be assessed and reviewed every ten years taking into account any change to the best available techniques. However, already prior to this time limit, it is left to the discretionary power of the authority to review the permit and to set up new emission thresholds, if the operation of the installation significantly pollutes the environment.

§ 356b GewO regulates that the WRG and in particular § 21a WRG and § 55f (8) WRG are applicable in the permit procedures.

6.2 Relationship with other sectoral policy plans

The Austrian Constitution obliges the authorities responsible for adopting planning acts to take account of the planning acts of other authorities. It also stipulates that regional planning acts need to take into account planning acts adopted on the federal level.

With regard to land use planning, Article 118 of the Austrian Constitution explicitly states that the municipalities are competent for local land use planning in accordance with the laws and ordinances of the Federation and the Länder. Both the Federation and the Länder have supervisory competences in relation to the municipalities’ right to carry out land use planning. The Constitutional Court held in VfSig. 11.845/1988, that also planning acts of more than local importance, even if they are not yet adopted, have to be taken into account by the municipalities in their local land use planning acts.

Thus, a land use plan or a spatial planning document that does not reflect the requirements of the NGP is unlawful and has to be amended. Individuals may invoke Article 118 of the Austrian Constitution and bring cases before the Constitutional Court.

§ 11 of the Upper Austrian Land Use Planning Act, for example, stipulates that the government of Upper Austria is competent for the implementation of the objectives and

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3 In this act the IPPC Directive was mainly transposed. See also § 5 EG-K, § 119 MinroG und Anhang 5 Teil 1 AWG 2002.
4 See also VfSig. 11.849/1988 and 7658/1975.
the principles of land use planning as well as for ensuring the conformity with land use plans that have more than a local importance. It performs this task by land use programmes (ordinances) adopted by the government of this Land. Such programmes should determine the objectives and the measures to achieve them and take into account the plans of the Federation.

According to § 18 of the Upper Austrian Land Use Planning Act the municipalities have to take into account the plans of the Land and the Federation while adopting, amending and regularly revising the local land use plans. Relevant planning acts (like water protection areas, risk areas ...) of the Federation and the Land shall be additionally shown in the local land use planning map.

Relevant Federation authorities (like the authorities competent for water management and planning) must be consulted, when municipal authorities adopt or amend land use planning acts. In accordance with § 33 of the Upper Austrian Land Use Planning Act, the draft of a land use planning act of a municipality should be submitted to the relevant Länder and Federation authorities which have the right to submit an opinion within the time limit of eight weeks. Pursuant to § 34 of the Upper Austrian Land Use Planning Act, prior to the adoption or amendment of a local land use planning act by a municipality, the government of the Land must approve this act. The approval must be denied if the local planning act is in discord with the land use programme of the Land. As mentioned above this programme needs to reflect also federal plans, including the NGP.

According to § 9 of the Upper Austrian Land Use Planning Act, the Federation has to communicate spatial planning data and measures to the government of the Land in time and give access to the necessary information. Vice versa the municipalities and the Land have to communicate their planning activities to the Federation.

Pursuant to § 35 of the Upper Austrian Land Use Planning Act, municipalities are obliged to revise their local land use planning acts every ten years.

All Länder adopted similar land use planning acts. Thus, it can be concluded that the NGP has a binding effect for all land use planning acts of the municipalities and the Länder. In addition, there are provisions in place to ensure that basin authorities are consulted in the preparation of a land use plan of the municipalities and revisions are to be carried out regularly.

The Federal Minister of Agriculture, Forestry, Environment and Water Management is responsible for both the NGP and the implementation of the flood risk management requirements in accordance with Directive 2007/60/EC. The presidents of the Länder have to co-operate in the establishment of the NGP as well as, for example, in the preliminary flood risk assessment or the establishment of flood risk maps and flood hazard maps. Furthermore, the implementation of the NGP and these maps follows the same procedural rules.

As mentioned above, § 55h WRG provides for the procedural rules on how to establish the NGP. § 55d WRG contains provisions on the analysis and data to be collected for the establishment of the NGP (so-called status analysis). The status analysis shall contain – pursuant to § 55h WRG - inter alia a risk analysis including information on surface waters and groundwater that run the risk of not achieving the environmental objectives set out in §§ 30a, c and d WRG. § 30a, c and d WRG lay down the environmental objectives for surface waters, groundwater and protected areas and thus transpose
Article 4 WFD. According to § 55m(1b) WRG the Federal Minister of Agriculture, Forestry, Environment and Water Management has to coordinate the elaboration, revision and update of the preliminary assessment of the flood risk, the flood risk maps and the flood hazard maps with the procedure for the NPG. By ensuring that the same procedure applies and the same authorities are competent for the establishment of the flood hazard maps, the flood risk maps and the NGP, it is ensured that the application of the WFD and Directive 2007/60/EC are coordinated.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

In Austria, the Water Management is organized as such: the Lebensministerium represents the highest legislative authority at the federal level; it drafts laws and regulations. The Water Management is, however, undertaken practically by the State-level authorities´ administrative bodies. Therefore, in most questions regarding water management, there is a mixture of competencies regulating which authority is responsible for which specific water management questions. Abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations: The basic principle is that the district administrative authority (Bezirksverwaltungsbehörde) is responsible for all licenses/permits in its respective area of responsibility; however, there are exceptions to this general principle, laid out in §§ 99 and 100 of the Wasserrechtsgesetz Autria, where either the Landeshauptmann (mostly medium scale projects) or the Lebensministerium (mostly cases of great scale or with international impacts) are responsible.

Permits (licences) are coordinated by the main WFD competent authority

There is an inventory of permits (licences)

There is an inventory of permits according to the Environmental Assessment Law on the homepage of the Umweltbundesamt (http://www.umweltbundesamt.at/umweltsituation/uvpsup/uvpoesterreich1/uvpdatenbank/). As described above, according to the §100 of the Wasserrechtsgesetz Autria, the Lebensministerium is responsible for large-scale projects, in all water categories; the Landeshauptmann is responsible for smaller-scale projects and abstractions.

Because different authorities are responsible for permitting for the different water users, there is a requirement for coordination/communication.

The Austrian administrative structure is hierarchical, i.e. there is no body to cooperate the work of authorities at different levels; in the case of licensing, the higher authorities
may pass on the licensing responsibility to the lower-level authority, and the lower-level authorities have to pass on applications that fall under the responsibility of the higher authority for decision.

### 7.2 Permit applications

The process for application for a permit is described below.

The process for application for a water-related permit is described in the Wasserrechtsgesetz Austria (§§ 103ff). 1: complete application form, content regulated by law (§ 103) 2: preliminary screening for scale and impacts, and preliminary consultation of experts (§ 104) 3: analysis of possible overriding public interests (§ 105) --> possible decline of application (§ 106) 4: oral hearing (§ 107) 5: consultation of experts and other authorities (§ 108) 6: decline or acceptance (issuing of permit, may include special provisions) (§ 111) 7: appeal, if necessary.

For abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, beside minor differences in timing etc., the scale decides which authority is in the end responsible for the procedure: Lebensministerium (large-scale); Landeshauptmann (medium-scale); district administrative authority (all other projects).

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

### 7.3 Enforcement of permits: authorities

In general in Austria, the authorities responsible for inspections and enforcement related to water permits are at district level: the 84 county administrations and 15 statuary cities, so in total 99 entities.

There are inspectors specialised in surface and ground water, whose tasks including the monitoring of water quality on the status of water quality and support administrations in the field of permitting and inspection.

For large scale hydropower plants and storages the Ministry of Agriculture, Forestry, Environment and Water Management (Lebensministerium) has its own inspectors.

In addition, police officers can intervene in urgent cases and take measures in the interest of public security. They have to inform the legal water authority about their measures. In total there are around 900 local police stations, 100 county and city police stations, 9 Länder and 1 Federal criminal police office.

For criminal cases, the public prosecutor’s office is involved.

The bodies are organised by state/region (i.e. Land) and by district.

There are separate authorities responsible for enforcement of different economic sectors. If water permits are related to either the waste sector, electricity facilities or EIA projects, then the competence lies with the administrations in the 9 Länder (i.e. the second administrative level). Water law is applied by the competent waste authority.
Industry/IPPC facilities: Regulatory responsibility for IPPC installations is split between the Federation and the Länder. Where the Länder have responsibility (this includes installations where agricultural activities are carried out, including installations for intensive rearing of animals, and certain electricity producing plants), in general the responsibility for supervision is given to the level of the county/city authorities (Bezirksverwaltungsbürden or the magistrate in the statutory cities). Nonetheless, the Land is responsible if the project affects more than one county. Water law is applied by the competent industry authority.

Agriculture: The Austrian Paying Agency (AMA) actually carries out controls on cross compliance (1% of farmers per year). The main provisions of the Action Programme and their compliance are controlled as part of cross compliance.

The regional authorities (water pollution control) are responsible for the execution of the water act (the nitrate action program is an ordinance based on this water act). Therefore, they focus their controls on sensitive areas (higher nitrates concentrations in water) or intensive farming areas, etc. They act on their own behalf and mostly case-related (e.g. infringements,...) - if there are complaints of neighbours or citizen (e.g. liquid manure on snow covered land), without minimum control quota.

The regional authorities are also responsible for any “follow-up” of infringements detected during Cross Compliance controls and reported by AMA.

The same authorities are responsible for the enforcement of different types of water-related permits. The Lebensministerium is the highest legal water authority in Austria and therefore the overall responsibility for the enforcement of all water-related permits is at the Lebensministerium. All subordinated administrative bodies on state or regional level are organised in a hierarchical structure.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
In the General Administrative Procedure Act 1991 – AVG, § 39 (2a), the authority shall combine procedures for joint hearing and decision and coordinate them with proceedings conducted by other authorities: e.g. police officers who intervene in urgent cases and take measures in the interest of public security have to inform the legal water authority about their measures taken.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are separate entities. The Ministry of Agriculture, Forestry, Environment and Water Management is the main authority for water management and the highest legal water authority responsible for enforcement; the preparation of river basin management plans is shared between the Ministry and the Länder. Coordination of the Lebensministerium and the Länder is laid down in the RBMP process, which is enshrined in the Austrian Water Act. The implementation of the WFD within the Austrian Water Act gives the water management a new frame, which covers objective setting, monitoring programmes, evaluation and on that basis development of programmes of measures.
7.5 Enforcement actions

7.5.1 Number of inspectors
The overall responsibility is at the Lebensministerium. The inspections, however, are undertaken by the Landeshauptmann and his State-level authorities’ administrative bodies on behalf of the Federal Minister. Each Landeshauptmann is free to organize the inspection bodies. The following units within the Länder are carrying out water inspection:

- Carinthia: units 15 and 18
- Upper Austria: units “Umweltschutz, Unterabteilung Gewässerschutz” and “Wasserbau” with its field offices for “Gewässerzustandsaufsicht”
- Vienna: MA 45 – specific group “Gewässeraufsicht”
- Burgenland: unit “Wasser- und Abfallwirtschaft, Hauptreferat Gewässeraufsicht und Sachverständige”
- Salzburg: subunit 13/04 in unit “Naturschutz”
- Tyrol: central unit ”Wasserwirtschaft”; additionally regional authorities Imst, Innsbruck, Kufstein, Lienz, Reutte
- Styria: central “Gewässerpolizei, Gewässergüteaufsicht und Grundwasseraufsicht bei der Fachabteilung 17 C (Technik des Umweltschutzes), Gewässerzustandsaufsicht bei der Abteilung 19 A (Wasserwirtschaft)”; additionally decentral “Gewässerzustandsaufsicht” at regional authorities
- Vorarlberg: “Landeswasserbauamt Bregenz”, in specific cases “Umweltinstitut Vbg bei Gewässergüteaufsicht”
- Lower Austria: central “Abteilung Wasserwirtschaft”; additionally decentral at 15 regional authorities;

The exact number of inspectors within each unit on state level is currently not available.

7.5.2 Number of inspections
The number of inspections is currently not available at federal level.

The Agricultural Paying Agency (AMA) inspected 1,671 farmers in 2010 within Cross Compliance according to the compliance with the Nitrates Action Programme.

In the frame of the Agri Environmental program (ÖPUL) 7,1% (8,451 of 118,358) of the farmers were inspected.

7.5.3 Number of infringement actions
The exact number of infringement actions is currently not available.

The Austrian Nitrates Report 2012 gives one example of an infringement rate: according to a specific measure on preventive protection of water and soil 1.22% of the overall applied number were sanctioned.

7.5.4 Other mechanisms (in addition to inspections)
Self-control and documentation; Reporting obligations (registries, e.g. Emission Register EmReg-OW); voluntary programmes (Agri Environmental Programme ÖPUL).
7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
There are three main types of sanctions are set out in environmental and water legislation: criminal sanctions, administrative criminal sanctions (e.g. fines or imprisonment) and administrative enforcement measures (e.g. closure of parts or of a complete installation).

There is a detailed catalogue of administrative sanctions in the Water Law (§ 137 WRG). The level of the fines range from up to 3,630 to up to 36,340 Euros, depending on the type of violation.

Criminal prosecution is also possible in case of severe water pollution. Criminal sanctions which punish actions with regard to water pollution are ruled in sections 180 et seq. of the Criminal Code. A person can also be punished if he causes substantial risks to water etc. by non-compliance with a regulatory provision (section 180 of the Criminal Code), in particular in cases that would have the potential to cause long-term deteriorations in water, soil or air quality or substantial risks to animal and plants species.

IPPC: Sanctions for breaches of IPPC legislation include criminal sanctions, administrative criminal sanctions (e.g. fines or imprisonment) and administrative enforcement measures (e.g. closure of parts of or the complete installation, and seizure of tools, machines and transport equipment. (Based on the Trade, Commerce and Industry Regulation Act (GewO); the Waste Management Act (AWG); the Emission Protection Act for Boiler Plants (EG-K); Mineral Resource Act (MinroG); and the relevant IPPC law of each federal state). (Milieu IPPC study)

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
While the steering function in terms of legislation and budgets is allocated to the federal state level, the majority of executive tasks is allocated to the Länder level. This ensures substantial consistency by using the Ministries’ experiences in the CIS process and building on the regional and local expertise of the Länder. Additionally the public consultation process gives valuable input.

7.7.2 Weaknesses of the system of inspections and enforcement
resources available are stretched due to the impact of the Economic crisis; data availability as basis for inspections, enforcement and decision-making will be further improved by development of data bases (e.g. monitoring data, details on water body classification) shared by the Lebensministerium and the Länder.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is thought that the RBMPs have strengthened enforcement. The implementation of the WFD into national law and the RBMP enhanced further Austrian wide consistency of water management instruments, decision making process, and transparency due to a number of new conceptual papers, guidance documents and legally binding ordinances for monitoring, public involvement, water body classification, guiding principles for decisions for hydropower generation (e.g. Kriterienkatalog Wasserkraft);
8 References


Criminal Code and other legislation

Essential information on river basin management plans is available at http://www.lebensministerium.at/wasser/wasser-oesterreich/plan_gewaesser_ngp/nationaler_gewaesserbewirtschaftungsplan-nlp.html.

Federal Ministry for Agriculture, Forestry, Environment and Water Management

Homepage of the Lebensministerium;

Homepage of the Ministry for Economy, Family and Youth (http://www.bmwfj.gv.at/Seiten/default.aspx);

Homepage of the Prime Minister’s Office (http://www.bka.gv.at/site/3353/default.aspx);

Homepage of the Ministry for Transport, Innovation and Technology (http://www.bmvit.gv.at/);

IPPC ENFORCEMENT STUDY (MILIEU LTD), PROVISIONS ON PENALTIES RELATED TO LEGISLATION ON INDUSTRIAL INSTALLATIONS, 2011, FOR DG ENV.C3 http://wisa.lebensministerium.at/article/archive/29384
http://wisa.lebensministerium.at/article/archive/29385
http://wisa.lebensministerium.at/article/archive/29401


The main source of information in the legal nature of the RBMP is the Act on Water Management, available together with other legislation at http://www.ris.bka.gv.at.

Wasserrechtsgesetz Autria; Homepage of the Umweltbundesamt; Lebensministerium 2004.

Wasserrechtsgesetz Austria; Lebensministerium 2004.

Water Act (WRG); Milieu IPPC study (Provisions on penalties related to legislation on industrial installations, 2011, for ENV.C3); IMPEL; official MS reply.

WISE Summary Report; Homepage of the Lebensministerium.

WISE Summary Report; Wasserrechtsgesetz Autria; Lebensministerium 2004.
Member State Governance Fact Sheet: BELGIUM

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>RBMP and PoM preparation</td>
<td>Region and Federal State authorities</td>
<td>Federal coordination body: the Coordination Committee for International Environmental Policy.</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Flanders: VMM &amp; INBO; Wallonia: DGARNE &amp; ISSeP (surveillance monitoring); Ibid (operational &amp; investigative monitoring); Federal State (coastal): Management Unit of the North Sea Mathematical Models and the Scheldt estuary.</td>
<td></td>
</tr>
</tbody>
</table>


### Area of WFD-related responsibility | Competent Authority / main coordinating authorities | Supporting authorities
--- | --- | ---
Permitting | Flanders: Waterway managers, municipalities, provinces; Wallonia: DGARNE & DG02, municipalities, provinces; Federal state: Minister for the North Sea. | Police forces and municipal authorities.

Enforcement | Brussels: Brussels Institute for Environmental Management; Flanders: LNE, Environmental Enforcement Court; Wallonia: DGARNE |

The main competent authorities responsible for the implementation of the WFD are described below.

The Regions and the federal state are the competent authorities for WFD implementation.

The Regions are responsible for implementing the directive for all water categories, apart from coastal waters, which are the responsibility of the Federal State.

There have been no changes in administrative arrangements since the publication of the RBMP.

#### 1.1 Division of responsibilities

There are different authorities responsible for implementing the requirements of the directive for different water categories (groundwater, lakes, rivers, transitional etc.)

The Regions are responsible for implementing the directive for all water categories, apart from coastal waters, which are the responsibility of the federal state (WISE).

Since the Regions are responsible for water management, there is a federal coordination body: the Coordination Committee for International Environmental Policy (in Dutch CCIM "Coördinatiecomité Internationaal Milieubeleid", in French CCPIE “Comité de Coordination de la Politique Internationale de l’Environnement”). This committee ensures there is coordination between the different regions and federal state (Compliance Check).

#### Flemish Region

The Coordination Committee on Integrated Water Policy (CIW) has the overall responsibility within RBDS. The CIW was founded in 2004 with the Flemish Parliamentary Act on Integrated Water Policy (2003) and for the RBMPs, the CIW is considered as being the "manager" (Compliance Check).
Walloon Region

The Water Code designates the Walloon Government as competent authority for the WFD (Article D.11 of the Water Code: "The Government shall assume, for each Walloon river basin district, the missions of the basin district authority.") The Government is represented by the Administration authority, in this case, the Public Service of Wallonia (SPW) and its following two directorates-general: Directorate General for Agriculture, Natural Resources and the Environment (DGARNE or DGO3) and Directorate General for Mobility and Waterways or DGO2). (WISE)

Brussels-Capital Region

The Brussels Government is the competent authority for WFD. It ensures the monitoring programmes and the establishment of the programme of measures for the Brussels Region; collaborates on the establishment of the international Scheldt basin management plan; involves the public participation into the implementation of the Directive. (WISE)

Federal State

The federal state is responsible for marine waters. (Federal Public Service For Public Health, Food chain Safety and Environment). (WISE)

Authorities responsible for implementing the requirements of the directive for the different water categories.

Table 2: Authorities responsible for the different water categories

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>Regional Governments</td>
</tr>
<tr>
<td>Lakes</td>
<td>Regional Governments</td>
</tr>
<tr>
<td>Transitional</td>
<td>Regional Governments</td>
</tr>
<tr>
<td>Coastal</td>
<td>Federal State</td>
</tr>
<tr>
<td>AWBs</td>
<td>Regional Governments</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>Regional Governments</td>
</tr>
</tbody>
</table>

Co-ordination among the different authorities for the management of different water categories is formalised.

Coordination is carried out at the senior management level. Since the Regions are responsible for water management, there is a federal coordination body: the Coordination Committee for International Environmental Policy (in Dutch CCIM "Coördinatiecomité Internationaal Milieubeleid (CCIM)", in French CCPIE “Comité de Coordination de la Politique Internationale de l’Environnement”). This committee ensures
there is coordination between the different regions and federal state (Compliance Check).

In the Flemish Region, the CIW (Coordination Committee on Integrated Water Policy) was established in 2004 to have a multidisciplinary and policy area crossing intersectoral collaboration between the entities that are involved in water management in Flanders.

The CIW is composed of the leading officials of all administrative entities involved in the water management and adjacent policy fields.

For each RBMP the CIW is seen as the water manager. The chairman of the CIW is the Flemish Environment Agency.

The authorities involved in coordination are:

At Belgian level: the Coordination Committee for International Environmental Policy (in Dutch CCIM and in French CCPIE). In Flanders: the CIW (coordination committee on integrated water policy).

1.2 Authorities involved in preparing and approving the RBMPs

The Regions and the federal state are responsible for preparing and approving the RBMP.

In the Flemish region, the CIW is responsible for preparing the RBMP, the Flemish government approves the RBMP.

Coordination mechanisms to deal with multiple authorities:

The Coordination Committee for International Environmental Policy (in Dutch CCIM and in French CCPIE) at Belgian level is responsible for coordination & communication.

In Flanders, the CIW (coordination committee on integrated water policy) is responsible for coordination & communication.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

Monitoring is undertaken differently in the different regions. In Wallonia and Flanders, it is done through a mixture of both the authority’s own facilities and staff and a contracted service. At the federal state level, monitoring is done through the authority’s own facilities and staff.
Different authorities are responsible for surveillance, operational and investigative monitoring, as outlined in the table below (Table 2).

**Table 3: Summary of responsible authorities for surveillance, operational and investigative monitoring**

<table>
<thead>
<tr>
<th>Type of Monitoring</th>
<th>Flemish Region: VMM and INBO. Walloon Region: The authority that is responsible for the 3 kinds of WFD monitoring is the Walloon environmental administration DGARNE (SPW), assisted by the public Walloon Reference Laboratory ISSeP in Liège (water sampling in the monitoring networks and chemical analyses). For some specific chemical analyses, ISSeP works with subcontractors. Coastal waters (Federal State): De Beheerseenheid van het Mathematisch Model van de Noordzee en het Schelde-estuarium (The Management Unit of the North Sea Mathematical Models and the Scheldt estuary).</th>
</tr>
</thead>
</table>

No information was provided on coordination between the different monitoring authorities.

The Regions’ authorities are responsible for monitoring in all water categories (rivers, lakes, transitional, groundwater), except coastal waters, where the Management Unit of the North Sea Mathematical Models and the Scheldt estuary (De Beheerseenheid van het Mathematisch Model van de Noordzee en het Schelde-estuarium) is responsible for monitoring.

### 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.
Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

**Table 4: Summary of responsible authorities for different directives & policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Flemish Region: VMM (Flemish environment agency). Walloon Region: Walloon Government; DGARNE (DG03) involved in individual (small scale) WWTPs; For the management and financing of wastewater collect and treatment in large UWWTPs, public company SPGE S.A., under management contract with the Walloon government.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Flemish Region: VLM (Flemish land agency)). Walloon Region: Walloon government and environmental administration (DGARNE)</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Flemish Region: de Afdeling Toezicht Volksgezondheid en de Vlaamse Milieumaatschappij). Walloon Region: Walloon government and environmental administration (DGARNE)</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Flemish Region: Flemish environment agency). Walloon Region: Walloon government and environmental administration (DGARNE)</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Flemish Region: CIW). Walloon Region: Walloon government and environmental administration (DGARNE)</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Flemish Region: ANB (nature and forest agency)). Walloon Region: Walloon government and environmental administration (DGARNE). Federal State (for habitats for which the Federal State has competencies)</td>
</tr>
<tr>
<td>Climate</td>
<td>Flemish Region: LNE (department environment, nature and energy)). Walloon Region: Walloon government and environmental administration (DGARNE)</td>
</tr>
</tbody>
</table>

24
Because there are different authorities, there is a need for coordination with the main WFD competent authority.

**Flemish Region:**

Several authorities (Flemish Environment Agency, Agency for Nature and Forests) are represented in the Coordination Committee on Integrated Water Policy (CIW).

**Federal State:**

Within the "Coördinatiecomité Internationaal Milieubeleid" (CCIM). MSFD is coordinated with the CCIM North Sea and Oceans (CCIM Stuurgroep Noordzee en Oceanen). Habitat issues are coordinated within the CCIM Nature (CCIM Natuur).

Also a plenary CCIM meeting exist to overview all sub CCIM groups.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 4).

**Table 5: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
</table>
| Agriculture    | Flemish Region: Department of Agriculture and Fisheries of the Flemish government – represented in CIW.  
Walloon Region: Walloon Government and DGARNE (or DGO3 administration (Operational Directorate-General for Agriculture, Natural Resources and the Environment / Direction générale opérationnelle de l’Agriculture, des Ressource naturelles et de l’Environnement) – SPW (Public Service of Wallonia) |
| Water          | Drinking Water  
Flemish Region: Flemish Environment Agency – represented in CIW.  
Walloon Region: Walloon Government and DGARNE administration (DGO3) - SPW (Public Service of Wallonia)  
Wastewater  
Flemish Region: Flemish Environment Agency – represented in CIW.  
Walloon Region: Walloon Government;  
DGARNE (DGO3) involved in individual (small scale) WWTPs;  
For the management and financing of wastewater collect and treatment in large UWWTPs, public company SPGE S.A., under management contract with the Walloon government. |
<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
</table>
| **Energy**      | Flemish Region: Department of Environment, Nature and Energy – represented in CIW.  
| **Transport**   | Flemish Region: Department of Mobility and Public Works of the Flemish government – represented in CIW.  
                 | Walloon Region: Walloon Government and DGO2 administration (Operational DG Mobility and Waterways / Direction générale opérationnelle de la Mobilité et des Voies hydrauliques) - SPW (Public Service of Wallonia) |
| **IPPC**        | Flemish Region: Department of Environment, Nature and Energy – represented in CIW. Department of Economy, Science and Innovation – represented in CIW.  
                 | Walloon Region: Walloon Government and DGO6 administration (Operational DG Economy, Employment and Research / Direction générale opérationnelle de l'Économie, de l'Emploi et de la Recherche) – SPW (Public Service of Wallonia).  
                 | **Non IPPC**  
                 | Flemish Region: Department of Environment, Nature and Energy – represented in CIW.  
                 | Walloon Region: Walloon Government and DGO6 administration (Operational DG Economy, Employment and Research / Direction générale opérationnelle de l'Économie, de l'Emploi et de la Recherche) – SPW (Public Service of Wallonia).  
| **Mining**      | Flemish Region: Not applicable.  
                 | Walloon Region: Walloon Government and DGARNE administration (DGO3) - SPW (Public Service of Wallonia)  
                 | (for the management of abandoned coal mines).  |

Because there are different authorities, there is a need for coordination with the main WFD competent authority.

**Flemish Region:**

Several authorities (Department of Agriculture and Fisheries, Department of Mobility and Public Works, ...) are represented in the Coordination Committee on Integrated Water Policy (CIW). Several times a year, representatives from sectoral NGOs (agriculture,
industry, water industry) are invited by the CIW to discuss the recent evolution of water policy in Flanders.

**Walloon Region:**

- Internal coordination within DGARNE (in 2008 the Walloon agriculture and environmental administrations merged to form DGARNE).
- Coordination with SPGE
- Coordination with DGO2 and DGO4.

### 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

**Flanders**

The involvement of stakeholders is ensured through the Integrated Water Policy Coordination Commission (CIW). The CIW is composed of representatives of the following Flemish Region administrations and public entities competent for (i) environment, nature and energy, (ii) mobility and public works, (iii) planning, agriculture and fisheries (on an advisory basis), (iv) economy, science and innovation (on an advisory basis), as well as representatives of local water board via their umbrella organisations including (i) association of Flemish Provinces, (ii) Association of Flemish Cities and Municipalities, (iii) Association of the Flemish Polders and Watering, and finally representatives of water companies through their umbrella organisation, i.e. AquaFlanders. The CIW is responsible for developing, updating and implementing the RBMPs. The CIW makes available to the public and to the relevant stakeholders the information related to the establishment of the RBMPs. Each stakeholder has the opportunity to send written remarks and opinions to the CIW. The stakeholders include the services and agencies that depend on the Flemish Region, municipalities which territories fall within the scope of the RBMP, the relevant sub-basin boards and administrations, public and private entities in the Flemish Region responsible for tasks of public interest, the Social and Economic Council of Flanders (De Sociaal-Economische Raad van Vlaanderen), the Environment and Nature Council of Flanders (de Milieu- en Natuurraad van Vlaanderen) and the general public. The CIW is in charge of gathering and reviewing all the information, opinion and written remarks before submitting the final draft of the RBMPs for approval to the Flemish Government.

**Wallonia**

In Wallonia, the public consultation (under the form of a public inquiry) is provided on one hand by Articles D.26 to D.28 of the Water Code (i.e. Book II of the Environment Code) and on the other hand by Article D.29 of Book I of the Environment Code. Moreover, in addition to the consultation of the general public, the competent authority

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7 Article 37 of the Decree of 18 July 2003 regarding the integrated water policy
has to consult at least the following bodies (Article D.28, paragraph 4 of the Water Code): the municipalities of the Walloon river basins covered by the RBMPs, AQUAWAL (Union of the Walloon public operators of the water cycle), the Walloon Environmental Council for Sustainable Development, the SPGE (Public Company for Water Management), the Consultative Body for Water, Consultative Body for Land Use Planning, the Consultative Body for Nature Conservation, the Committee for Water control. The River Contracts can be added to this list.

The majority of the members of these consultative bodies are involved in water management aspects, as they represent the agricultural sector, the industrial and SMEs sectors, the public water sector (drinking water and wastewater treatment), the environmental NGOs, the labour unions, etc..

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

In the Flemish Region, new authorities have been created as a result of the WFD. The Flemish Parliamentary Act on Integrated Water Policy (2003) - this act is the juridical implementation of the WFD in Flemish law – describes the organization of the integrated management planning and introduced a new coordination and consultative structure for the coordination of the integrated water policy: the Coordination Committee on Integrated Water Policy (CIW).

In the Walloon Region and at the Federal State level, no new authorities have been created as a result of the WFD.

In addition, in the Flemish Region, some significant changes were made to existing authorities as a result of the WFD. A coordination and consultative structure (i.e. the CIW) between the water management authorities (regional and local) and the authorities from adjacent policy fields (spatial planning, agriculture, economy, ...) was established in Flanders. The CIW searches for sustainable and supported solutions for the water problems in Flanders through a cooperation, with respect for the identity, the interests and competences of the individual members.

5.2 Organisation structure

Only information on the Flemish Region has been provided. No diagram - just text.

Flemish Region: The CIW is composed of the leading officials of all administrative entities involved in the water management and adjacent policy fields:

* on the Flemish level:
  - the policy area Transport: Department of Mobility & Public Works and the government agencies for navigable waterways (Waterwegen en Zeekanaal NV, nv De Scheepvaart)
  - the policy area Spatial planning: Department of Spatial Planning
  - the policy area Agriculture: Department of Economy, Science and Innovation
  - the policy area Economy: Department of Economy, Science and Innovation
* for the regional and local water managers:
  - umbrella organization of Provinces
  - umbrella organization of Cities and Municipalities
  - umbrella organization of Polders and Drainage Authorities

* umbrella organisation of water companies (drinking and waste water companies)

The Flemish Environment Agency (VMM) fulfils the chairmanship.

6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

Belgium is a federal state and environmental legislation is mainly a regional competence. The regional authorities are responsible for establishing the RBMP.

Flanders

The RBMPs have a legal force on the basis of the Decree. However, it is noted that some parts of the plans are considered mandatory from which it cannot be derogated unless it complies with specific conditions set in the Decree. As a result, regional spatial executive plans set to implement the water management plans can only derogate from the mandatory parts of the plan on the basis of a reasoned consideration of the spatial needs of different social activities, based on a report of the sub-basin board plenary session or on the basis of the objections raised during the public inquiry, or advice submitted by the designated authorities and governments, or the advice of the committees responsible for spatial planning.

The Flemish Government is the competent authority to indicate the elements of the water management plan that are mandatory and to inform the relevant departments and agencies of the Flemish Region, as well as private and public entities responsible for duties of public utility in the Flemish Region. The non-mandatory parts have more of an informative value.

In Flanders, the RBMP includes the river basin management plans for the Schelde/Escaut and the Maas/Meuse (stroomgebiedbeheerplannen voor Schelde en Maas). The coordination for the Water Framework Directive and the establishment of the river basin management plans for river basin districts of the Scheldt and the Maas take place within the International Scheldt Commission (ISC) and the International Meuse Commission (IMC). The Integrated Water Policy Decree stipulates that the ISC and IMC are the competent authorities to establish the river basin management plans for each relevant basin and the Flemish Government is the authority adopting the plans. The river basin management plans have been adopted by Decision of the Flemish Government establishing the river basin management plans of the Schelde and Maas.

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6 Article 35 of the Decree of 18 July 2003 regarding the integrated water policy
9 Article 19 of the Decree of 18 July 2003 regarding the integrated water policy (Decreet van 18 juli 2003 betreffende het integraal waterbeleid)
10 Decision of 8 October 2010 of the Flemish Government concerning the adoption of the Scheldt and the Meuse river basin management plans and measures for Flanders, in accordance with Articles 33 and 64 of the Decree of 18 July 2003 on
Other relevant authorities include the Integrated Water Policy Coordination Commission (Coördinatiecommissie Integraal Waterbeleid, CIW), which is the responsible authority for the preparation, planning, control and follow-up of the integrated water policy and the execution of the Flemish government decisions related to water policy. The Flemish Environmental Agency has been established as the secretariat of the CIW and support the planning unit of the CIW. In addition, each river basin has been further divided into sub-basins. The secretariats of the sub-basin boards are responsible for the establishment of the sub-basin management plans. Lastly, provinces and municipalities are competent for local water management of sub-basin and polders.

The Flemish Government is competent to adopt the Programme of measures for each river basin district. The Flemish Government may also lay down detailed rules regarding the adequacy or integration of the Program of measures in water management plans or existing Programmes of measures.

**Wallonia**

In Wallonia, when they will finally be adopted, the plans will have no legal or regulatory value, but they will nevertheless bind the Government as competent authority. A number of measures of the RBMPs will be, according to their nature, the subject of Parliamentary Acts or Governmental decrees.

The Walloon Government is the competent authority for the adoption of the RBMPs for the Meuse, Scheldt, Rhine and Seine river basin districts. The draft RBMPs are prepared by the environmental administration (Directorate-General for Agriculture, Natural Resources and the Environment, DGARNE or DG03, Department for the Environment and Water DEE (Département de l’Environnement et de l’Eau), in cooperation with other administrations.

The procedure for the preparation and adoption of the RBMPs and of the programmes of measures is defined by Articles D. 26 to D. 28 of the Water Code 11 (partie décrétale du Livre II du Code de l’Environnement, contenant le Code de l’Eau).

These plans are subject to a decision of the Walloon Government. They have no legal or regulatory value. The plans, however, are meant to link the competent basin authority as regards the planned measures and the objectives they contain.

### 6.2 Legal effect

**Flanders**

The RBMPs are planning documents approved by and included in the law as Annexes to the Decision of 8 October 2010. In the hierarchy of legal acts, on the one hand, it falls under laws and regulations (decrees). It cannot contradict other laws and regulations. On the other hand, it stands above water-related administrative decisions including sub-basin management plans. Besides, it applies only on the river basin scale and to specific regional entities and authorities. Hence plans cannot modify national-level administrative decisions.

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In Wallonia, the plans are adopted by a decision of the Walloon Government. The plans have thus less value than a Parliamentary Act or a governmental decree.

The environmental objectives are legally binding and are included as Annexes to the Decision of the Flemish government of 8 October 2010. The Decree set the circumstances under which it can be derogated from the realisation of the environment objectives. Similarly to Article 4 of the Water Framework Directive, those derogations are permissible under specific circumstances, such as the impossibility to reach the objective in the set timeframe, unforeseeable exceptional circumstances or changes in the physical characterisation of water. Every planning cycle (six years), the Flemish Government reviews cases where the environmental objectives have not been achieved.\textsuperscript{12}

\textbf{Wallonia}

In Wallonia, the environmental objectives and the possible justifications of exemptions are listed in Article D.22 of the Water Code. The draft management plans currently under public enquiry include in their Chapter 5 the objectives set for each water body by 2015.

\section*{6.3 Legal status in relation to individual decisions}

\textbf{Flanders}

Article 8(2) of the Decree of 18 July 2003 provides that authorities must take into account the established RBMPs in their decision-making. Authorities’ decisions must be motivated in this respect and must take into consideration relevant set objectives. This has been confirmed by a decision of the Belgian Constitutional Court which stated that authorities must take the relevant water management plans into consideration in evaluating a programme, measure or permit.\textsuperscript{13}

The Decree stipulates that where it appears from monitoring data or other information that the environmental objectives for water bodies will not be met, the Flemish Government ensures that the relevant permits and authorizations are examined and subject to revision if necessary.

\textbf{Wallonia}

In Wallonia, the Article D.22 of the Water Code defines the general actions to be taken to achieve the environmental objectives. Concrete actions to reach these objectives are the measures contained in the draft RBMPs currently subject to public inquiry. The environmental permits that have a "water" component are a concrete response tool to the objectives, as they include mechanisms allowing the setting of particular (special) conditions that take into account the quality objective of the receiving water body.

The following subsections describe the legal status of the RBMP in relation to specific types of permitting decision: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

The following subsections describe how the RBMP is included in the permitting decision process: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

\textsuperscript{12} Articles 53 to 58 of the Decree of 18 July 2003 regarding the integrated water policy
\textsuperscript{13} Constitutional Court decision 32/2005 of 9 February 2005
Hydropower installations

Hydropower installations can fall under two different regimes: the concession regime for installation with power above 25 MW and the authorisation regime for installations with power below 25 MW.\(^{14}\)

The authorisation for hydropower installations is granted by the Federal Minister competent for Energy upon proposition of approval or refusal from the Commission for the Regulation of Electricity and Gas (Commissie voor de Regulering van de Elektriciteit en het Gas). The authorisation, once granted, will be published in the Belgian Official Gazette by Ministerial Decree, containing where appropriate, specific conditions.

In addition, hydropower installations are subject to environmental permits of different categories depending on their electrical capacity. Installations of hydropower capacity between 300kW and 500kW fall under category 3 permits where only a declaration is required. For installations producing hydropower between 500kW and 5.000kW (category 2 permits) or more than 5.000 kW (category 1 permits), a prior written authorisation is required.\(^{15}\) Such authorisations are granted for a maximum period of 20 years and are renewable upon application.\(^{16}\)

In accordance with the Decree on integrated water policy, any environmental authorisation should take into account the integrated water policy.\(^{17}\)

On the basis that hydropower installations can influence the natural fluctuations of the flow of rivers, the RBMP provides those fluctuations in the flow should be taken into account in the assessment of the acceptable environmental level of water.\(^{18}\)

In Wallonia, hydropower installations are subject to environmental permits of class 1 or 2 according to their electrical power. Hydropower installations producing between 100 kW (= 0,1 MW) and 10 MW need a class 2 environmental permit and hydropower installations producing more than 10 MW need a class 1 environmental permit. Such authorisations are granted for a maximum period of 20 years and are renewable upon application.

Abstraction for agriculture

Flanders

Abstraction for agriculture is subject to different types of environmental permit categories depending on the type of activities. For example, drainage for cultivated land requires only a category 3 permit, which is sought by sending a declaration form and relevant documentation to the municipality in charge of registering such declaration, while agricultural projects such as drainage of 50 ha or more or irrigation of 100 or more require more stringent category 1 permits.\(^{19}\) Such permits are granted for a maximum

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\(^{14}\) Article 2 of the Royal Decree of 11 October 2000 on the granting of individual authorisations covering the establishment of power generating facilities

\(^{15}\) Article 4 of the Decree of 28 June 1985 on environmental permits (Milieuvergunningssdecreet: Decreet van 28 juni 1985 betreffende de milieuvergunning) and Annex I of VLAREM (Besluit van de Vlaamse regering van 6 februari 1991 houdende vaststelling van Vlaams reglement betreffende de milieuvergunning)

\(^{16}\) Articles 43 and 45 of the Decree of 28 June 1985 on environmental permits

\(^{17}\) Article 8(5) of the Decree of 18 July 2003 regarding the integrated water policy

\(^{18}\) RBMP for the Schelde, pp.31-32

\(^{19}\) Articles 2 to 4 of VLAREM and Annex I of VLAREM
period of 20 years unless the permit provides for a shorter or longer period. Permits may be renewed upon application.\textsuperscript{20}

\textit{Wallonia}

We would like to mention that there is almost no abstraction at all for irrigation in Wallonia.

Environmental permits are requested for groundwater abstraction (all uses) and for surface water abstraction (only if intended for drinking water production). According to the abstracted volume, a class 1 or class 2 environmental permit is granted. For smaller abstracted volumes (class 3), only a declaration form (notification) has to be sent to the municipality for registration.

In the List of projects submitted to environmental permit or declaration, the category for water abstraction is No. 41.

\textit{IPPC and other industrial installations}

\textit{Flanders}

Similarly to activities related to abstraction for agriculture, industrial installations and IPPC are subject to different types of environmental permit categories and conditions depending on the type of industry, installation or substance emitted. There are three categories of permit ranging from a declaration to be sent to the municipality for registration (category 3) to more stringent permits involving more complex procedures and the possibility for authorities to attach special conditions to the permits (categories 2 and 1 permits).\textsuperscript{21} Permits should take into account the integrated water policy and by extension the RBMP. The RBMP relies on the environmental permit as an instrument to tackle pollution from specific industrial sources, based on permits conditions, including end-of-pipes measures and best available techniques.\textsuperscript{22} Such permits are granted for a maximum period of 20 years unless the permit provides for a shorter or longer period. Permits may be renewed upon application.\textsuperscript{23}

In \textit{Wallonia} the legislation is globally the same as in Flanders, but permits are not granted for more than 20 years. Sometimes the permit is granted for a much shorter period, for example if important changes to the industrial installations are needed or in case of alignment on the expiry date of the main installation permit. See also answer to question

The classified installations for the protection of the environment have to respect discharge requirements set (i) in the general operating conditions applicable to all sectors (http://environnement.wallonie.be/legis/pe/pe004.htm) ; (ii) in the sectoral operating conditions applicable to their specific activity sector (http://environnement.wallonie.be/cgi/dgrne/aerw/pe/ ) ; iii) in the particular conditions imposed by the competent authority in the environmental permit.\

\textsuperscript{20} Article 30(2) and Article 39 of VLAREM
\textsuperscript{21} See VLAREM
\textsuperscript{22} RBMP for the Schelde, p. 195
\textsuperscript{23} Article 30(2) and Article 39 of VLAREM
In Wallonia, there are 2 types of permits: the environmental permit and the ‘single’ permit. The single permit applies to “mixed” projects (class 1 or 2), i.e. projects requiring both an environmental permit and a building permit (construction). For class 1 (mandatory EIA) and class 2, the competent authority at trial is the municipal college.

However, the Technical Officer (Fonctionnaire technique) and the Delegated official (Fonctionnaire délégué, for building projects) have exclusive jurisdiction for projects located in several municipalities and for applications made by a person of public law.

In appeal, the competent authority is the Walloon Government through the Minister of Environment.

The legislation on the environmental permits is explained on http://environnement.wallonie.be/aerw/pe/index.htm.

6.4 Relationship with other sectoral policy plans

Flanders

At the adoption of a new RBMP, the Flemish Government must repeal all provisions of existing management plans, including sub-basin management plans which are inconsistent with the RBMPs.\(^\text{24}\)

According to Article 36(3) of the Decree on integrated water policy, the regional spatial implementation, the spatial implementation plans or development plans may depart from the mandatory provisions of the river basin management only based on: (i) a reasoned and simultaneous consideration of the spatial needs of different social activities, (ii) the report of the sub-basin board plenary session or on the basis of the objections raised during the public inquiry and comments, (iii) the advice submitted by the designated departments and authorities, or (iv) the opinion of the committees responsible for spatial planning. In that case, the CIW is responsible to adapt the regional spatial implementation, basin and sub-basin management plans, the spatial implementation plans or development plans, before their final adoption. The same is applicable to provincial or municipal spatial implementation or development plans.

With regards to flood risk management, provisions must be included for each district’s river basin in the RBMP. Flood risk management plans established prior to the RBMP can apply to the extent that they include data and measures in accordance with the Annex I of the Decree on integrated water policy, and provided that their measures aim to achieve the flood risk management objectives.\(^\text{25}\)

In addition, the Decree states that councils and administrations of basin can provide their opinion on the RBMP, sub-basin management plans and spatial implementation plans or development plans during the plans’ preparation phase. The basin authorities have 180 days to send their opinion on the RBMP and sub-basin management plans drafts to CIW.\(^\text{26}\)

\(^\text{24}\) Article 49 of the Decree of 18 July 2003 on the integrated water policy
\(^\text{25}\) Article 34 of the Decree of 18 July 2003 on the integrated water policy
\(^\text{26}\) Article 37(2)(3) of the Decree of 18 July 2003 regarding the integrated water policy
7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

The majority of information gathered in this section relates to the Federal State.

- A general obligation is established in the Act of 20 January 1999 (article 25-30) as regards activities for which a permit is required in advance, to prepare a report on the environment effects (at the initiative of the applicant) and to undertake environmental assessment before and during these activities (carried out by the government). The responsible authority to list the activities for which an environmental impact report and assessment is required is the Minister for the North Sea. Legal basis: 9 SEPTEMBER 2003. — Koninklijk besluit houdende de regels betreffende de milieu-effectenbeoordeling in toepassing van de wet van 20 januari 1999 ter bescherming van het marinemilieu in de zeegebieden onder de rechtsbevoegdheid van België (Royal Decree of 9 September 2003 on the assessment of environmental effects).

- Certain activities for which a permit is required (e.g. the excavation of trenches, industrial activities, use of explosives, etc.): permit delivered by federal authorities (Minister for the North Sea). Legal basis: 7 SEPTEMBER 2003. — Koninklijkbesluit houdende de procedure tot vergunning en machtiging van bepaalde activiteiten in de zeegebieden onder de rechtsbevoegdheid van België (Royal Decree of 7 September 2003 on the procedure for permits required for certain activities in sea areas).

In the Walloon Region, permits (licences) are coordinated by the main WFD competent authority.

In the Flemish Region and at Federal State level, permits (licences) are not coordinated by the main WFD competent authority.

There is an inventory of permits (licences) in the Walloon and Flemish Regions and at Federal State level.

In Wallonia, there are 2 types of permits: the environmental permit and the ‘single’ permit. The single permit applies to "mixed" projects (class 1 or 2), i.e. projects requiring both an environmental permit and a building permit (construction). For class 1 (mandatory EIA) and class 2, the competent authority at trial is the municipal college.

However, the Technical Officer (Fonctionnaire technique) and the Delegated official (Fonctionnaire délégué, for building projects) have exclusive jurisdiction for projects located in several municipalities and for applications made by a person of public law.

In appeal, the competent authority is the Walloon Government through the Minister of Environment.

Permitting by the Federal State only applies to coastal waters (no other water categories).

There are different authorities for different water users at different geographical scales, as outlined in the table below (Table 5).

**Table 6: Permits and the Competent Authorities**

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Flemish Region: Waterway managers.</td>
</tr>
<tr>
<td></td>
<td>Walloon Region: Groundwater abstraction for the production of drinking water or any other use: environmental permit requested. Municipalities are the competent authority except if several municipalities are involved. According to the abstracted volume, a class 1 (EIA required) or a class 2 environmental permit is granted. For smaller abstracted volumes (class 3), only a declaration form (notification) has to be sent to the municipality for registration. In the List of projects requiring environmental permit or declaration, the category for water abstraction is No 41. See Annex 1 of Arrêté du Gouvernement wallon du 4 juillet 2002 arrêtant la liste des projets soumis à étude d'incidences et des installations et activités classées - <a href="http://environnement.wallonie.be/legis/pe/pe006.htm">http://environnement.wallonie.be/legis/pe/pe006.htm</a>.</td>
</tr>
<tr>
<td></td>
<td>- Surface water abstraction:</td>
</tr>
<tr>
<td>Permits</td>
<td>Competent Authority</td>
</tr>
<tr>
<td>---------</td>
<td>---------------------</td>
</tr>
<tr>
<td>a) Surface water abstraction for drinking water production: the same procedure as for groundwater abstraction is applicable (environmental permit required).</td>
<td></td>
</tr>
<tr>
<td>b) Surface water abstraction for other uses in non-navigable watercourses, for a permanent installation, either municipalities, provinces, or regional administration are the competent authorities for delivering an authorisation according to the category of the watercourse (Category 3: Municipality; Category 2: Province; Category 1: Regional environmental administration DGARNE) – See Law of 28 December 1967 on non-navigable watercourses <a href="http://environnement.wallonie.be/legis/eau/eanna001.htm">http://environnement.wallonie.be/legis/eau/eanna001.htm</a>.</td>
<td></td>
</tr>
<tr>
<td>c) Surface water abstraction for other uses in waterways (navigable watercourses): the competent authority to deliver an authorisation is the Directorate-general Mobility and Waterways (DGO2 of the SPW).</td>
<td></td>
</tr>
<tr>
<td>Impoundments</td>
<td>Flemish Region: Building permits issued by municipalities or provinces. Walloon Region: See above: same authorities and procedure as for “Surface water abstraction for other uses than drinking water production”.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>Flemish Region: Environmental permits issued by municipalities or provinces. Walloon Region: Municipalities in general, or regional government and environmental administration (DGARNE). Environmental permit required. The classified installations for the protection of the environment have to respect discharge requirements set: (i) in the general operating conditions applicable to all sectors (<a href="http://environnement.wallonie.be/legis/pe/pe004.htm">http://environnement.wallonie.be/legis/pe/pe004.htm</a>); (ii) in the sectoral operating conditions applicable to their specific activity sector (<a href="http://environnement.wallonie.be/cgi/dgrne/aerw/pe/">http://environnement.wallonie.be/cgi/dgrne/aerw/pe/</a>); (iii) in the particular (special) conditions imposed by the competent authority in the environmental permit.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>Flemish Region: No permitting system in place for diffuse pollution. Use restrictions exist in manure and pesticides policy as well as requirements for households not connected to the sewage system. Walloon Region: This kind of pollution is not regulated by an environmental permit. However, specific legal provisions are foreseen in the Water Code (e.g. mandatory requirements for</td>
</tr>
</tbody>
</table>
### Permits

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmers linked to the transposition of the Nitrates Directive in Wallonia; provisions for households not connected to the sewage system.</td>
<td></td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>Flemish Region: Building permits issued by municipalities or provinces. Walloon Region: Either municipalities, provinces or the Walloon Region are the competent authorities (i.e. watercourse manager) for delivering an authorisation, according to the category of the watercourse (Category 3: Municipality; Category 2: Province; Category 1: Walloon Region -DGARNE) - Law of 28 December 1967 on non-navigable watercourses <a href="http://environnement.wallonie.be/legis/eau/eanna001.htm">http://environnement.wallonie.be/legis/eau/eanna001.htm</a> Moreover, hydropower installations are submitted to environmental permit of class 1 or class 2 according to the electrical power. Hydropower installations producing between 100 kW (= 0.1 MW) and 10 MW need a class 2 environmental permit and hydropower installations producing more than 10 MW need a class 1 environmental permit. The permits are granted for a maximum period of 20 years and are renewable upon application.</td>
</tr>
</tbody>
</table>

Because different authorities are responsible for permitting for the different water users, there is a requirement for coordination/communication.

Flemish Region: For environmental and building permits, a coordination mechanism with advice (also from water managers) is in place.

Federal State: For the permit issued by the Minister of Economy, formal approval by the Minister for the North Sea is required.

#### 7.2 Permit applications

The process for application for a permit is described below.

**Flanders**

1) Discharge permit: part of general environmental permit
   - 3 categories of companies: class 1 > class 2 > class 3
   - class 3: notification to municipality
   - class 2: permit to be delivered by municipality
   - class 3: permit to be delivered by province

2) Groundwater abstraction permit:
   - also part of general environmental permit

3) Surface water abstraction permit:
• abstractions > 500 m³ / year from navigable watercourses: permit to be delivered by waterway manager.

**Wallonia**

Standard procedure for granting an environmental permit:

- Introduction of the permit application by the applicant to the concerned municipality (competent authority).
- Sending of the application to the Technical Officer of the regional environmental administration (DGARNE).
- The Technical Officer examines the completeness and admissibility of the application and notifies it to the applicant.
- If the application is complete, the technical civil servant sends the application to the different bodies that have to be consulted, including the services in charge of water management (Surface Water Service ‘DESU’ and Groundwater ‘DESO’ Service). A public enquiry is organised (15/30 days for class 2/class 1 permits).
- The consulted bodies hand in their opinion within 30/60 days for class 2/class 1 permits.
- The technical officer gathers all the received opinions and coordinates them if appropriate. He then prepares his consolidated report with a proposed decision which he submits to the municipality (competent authority).
- The competent authority notifies the granting of the permit (or the denial of the permit) to the applicant.
- The applicant or any person who can demonstrate an interest may lodge an appeal against the decision. The decision on the appeal is the jurisdiction of the regional government.

**Federal State: Coastal water**

Permit is issued by the Federal Minister of the North Sea or by the Federal Minister of Economy (e.g. sand and gravel extraction).

A general obligation is established in the Act of 20 January 1999 (article 25-30) as regards activities for which a permit is required in advance, to prepare a report on the environment effects (at the initiative of the applicant) and to undertake environmental assessment before and during these activities (carried out by the government). The applicant/operator pays all costs related to the environmental impact assessment.

The Management Unit of the North Sea Mathematical Models and the Scheldt estuary conducts the monitoring.

There are differences in the permit application process for different water uses (Table 5).

**Table 7: Permit application processes for different water uses**

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Flemish Region: Surface water abstraction permit.</td>
</tr>
<tr>
<td></td>
<td>Walloon Region: See above.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>Flemish Region: Part of building permits.</td>
</tr>
</tbody>
</table>
### Water Use

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Walloon Region: See above.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>Flemish Region: Part of environmental permits.</td>
</tr>
<tr>
<td></td>
<td>Walloon Region: See above.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>Flemish Region: No permitting system in place for diffuse</td>
</tr>
<tr>
<td></td>
<td>pollution.</td>
</tr>
<tr>
<td></td>
<td>Walloon Region: See above.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>Flemish Region: Part of building permits.</td>
</tr>
<tr>
<td></td>
<td>Walloon Region: See above.</td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological measures, there is no possibility for situations in which the applicant for the permit is also involved in water resource management. There is one exception: at a Federal State level, for hydromorphological alterations, it is unclear whether there could be situations in which the applicant for the permit is also involved in water resource management. Currently a legal amending procedure intends to empower the Minister for the North Sea with the competence for Marine Spatial Planning. This process/tool aims to organise all activities at sea. When the amendments will be in force the same authority will act in some cases both as the authority which grants the permit as well as the authority involved in the work to protect water resources. However procedures for permits, marine spatial planning and the protection of the coastal waters contain enough safeguards to avoid any conflict.

### 7.3 Enforcement of permits: authorities

Environmental enforcement authorities are organised at regional level.

**Brussels Capital Region**: Brussels Institute for Environmental Management (Institut bruxellois pour la gestion de l’environnement - Brussels instituut voor milieubeheer, IBGE-BIM).

**Flanders**: Department of Environment, Nature and Energy (Departement Leefmilieu, Natuur en Energie (LNE) and its provincial and inspection divisions; and the Environmental Enforcement Court of Flanders (het Milieuhandhavingscollege).

**Walloon Region**: Directorate General for Agriculture, Natural Resources and Environment (Service public de Wallonie – Direction générale de l’Agriculture, des Ressources naturelles et de l’Environnement), in particular its Department for Permits and Authorisations (Département des Permis et des Autorisations) and its Department for Police and Controls (Département de la Police et des Contrôles). The latter is in charge of the enforcement.

In addition, police forces and municipal authorities have enforcement powers.

As indicated above, enforcement bodies are organised by the three regions. In addition, municipalities have an enforcement role. For instance, in the Brussels-Capital Region,
the IBGE-BIM can lead inspections in collaboration with municipalities, with the support of the police. This happens on a voluntary, ad hoc basis.

There is no separation of authorities responsible for enforcement of different economic sectors. It can be noted that, for industrial facilities across Belgium, water-related permits are encompassed in an overall environmental permit: the “Permis d’environnement” (Walloon Region, Brussels Capital Region) and in the “milieu vergunning” (Flanders). There are three classes of permits, determined by the potential impact on the environment of the facility.

In addition to regional controls, the Federal Agency for Food Chain Security (AFSCA – FAVV) controls financial support for agriculture.

**Flanders:**

- The specific authority in charge of control and supervision depends on the type of permit (class 1 or other), as set out in the “Milieu handhavingsdecreet”. If the permit is not a class 1 permit, the municipal police can control it and give a penalty.

- The Flemish Environmental Agency (Vlaamse Milieumaatschappij), since the “Besluit van 12 December 2008” is controls water permits and is also responsible more generally for water quality issues.

- Agriculture: Controls related to agricultural subsidies (i.e. not for water permits) are the responsibility of the Department responsible for agriculture and fisheries (Department Landbouw en Visserij). If relevant (e.g. in case of infraction), there is an exchange of information between the Flemish Environmental Agency and this Department: if the officer in charge of the permits notes something related to agricultural financial help, (s)he will inform the department.

**Wallonia:**

- Agriculture: the authorities in charge of environmental enforcement (Department of Police and Controls – Département de la police et Controles - DPC) also control the respect of environmental/agricultural standards related to the CAP. The Walloon Region and the AFSCA exchange information as set out in a convention.

**Territorial marine waters**

With regard to the exploration and exploitation of non-living resources in territorial waters (and the continental shelf), and the activities for which a permit is required, the following authorities are responsible for enforcement:

- The Ministry of Economy
- The Management Unit of the North Sea Mathematical Models and the Scheldt estuary,
- The Ministry of Environment.
- Navigation and shipping police.
There is no separation of authorities responsible for the enforcement of different types of water-related permits.

**7.4 Coordination on enforcement**

**7.4.1 Among enforcement authorities**

**National:** The web site of the Flanders Department for Environment, Nature and Energy mentions informal cooperation on enforcement among the Belgian regions. In addition, Federal and regional authorities signed a convention of cooperation.

**Brussels Capital Region:** As noted in Q1, IBGE/BIM can cooperate with municipalities and the police on enforcement.

**Flanders:** Each authority has a rather well-defined scope of activity and responsibility but they do exchange information and cooperate on a case-by-case basis (e.g. for yearly campaigns). For instance, coordinated inspection of river/maritime transport is organised about once a year. Similar cooperation exercises are organised for the control of waste substances for instance.

**Walloon Region:** According to Art. D.171 of the Code de l’environnement / Livre I ‘Dispositions communes et générales’, the regional administration competent for environment (i.e. the Direction générale de l’agriculture, des ressources naturelles et de l’environnement, in particular its Department for Police and Controls (Département de la Police et des Contrôles) meets at least once a year with the following organisations in order to ensure the coordination of the environmental criminal police:

- Representatives from courts and tribunals, prosecutors’ offices for the Appeal Courts and judicial circumscriptions.
- Representatives of local authorities
- The federal police.

**7.4.2 Between enforcement and water management authorities**

The enforcement authorities and water management authorities are separate entities.

Informal coordination exists between the department of environment, nature and energy and the Flemish environment agency.

The Brussels Water Management Agency (“SBGE-BMWB”) works together with the Brussels enforcement authority (“IBGE-BIM”) on waste water sanitation and on water pricing. Also, if the SBGE notices the presence of pollution, it notifies the IBGE, which sends an inspector who tracks the origin of the pollution.

**Flanders:** Water management and water control authorities are two independent bodies. However they do exchange information, also with the Environmental Enforcement Court of Flanders, in order to improve the existing legislation, on the basis of an annual report. A yearly management plan lays down the responsibilities of each authority in relation to control and inspection. The yearly management plan lays down the responsibilities of each authority in relation to control and inspection. As a result, each authority reports on its activities, exchanges information and signal problems to other relevant authorities.
Walloon Region: The Department of Police and Controls and the Department of Water and Environment belong to the same Directorate General (DGARNE). They have daily, efficient contacts.

7.5 Enforcement actions

7.5.1 Number of inspectors
In Flanders in 2009, the Department for Environment, Nature and Energy had 102 supervisors in charge of controlling the enforcement of environmental legislation.

In the Brussels-Capital Region, there were 33 inspectors for all sectors in 2010.

In Wallonia, the Department for Police and Controls (DPC) has 126 employees assigned to the control of all environmental matters. Of these 126 staff, 86 are field inspectors and 40 are part of the administrative staff. (In addition, since the merger of the administrations of agriculture and the environment in 2008, a further 61 DPC officers are responsible for controlling agricultural aid; they among other areas control cross-compliance, agro-environmental measures, declared agricultural area UAA, etc.)

7.5.2 Number of inspections
Flanders: in 2009, the Department for Environment, Nature and Energy carried out 8436 controls relating to the enforcement of environmental laws took place, across all areas of the environment.

Information not found for the Brussels Region.

In Wallonia, in 2010, the Department for Police and Controls (DPC) completed 4829 work requests (environmental controls) representing 3572 records (as several controls may relate to the same record).

Among these 3572 records, 814 involved a "water" component. All controls are undertaken by the DPC – Department of Police and Controls.

7.5.3 Number of infringement actions
Information not found for the Brussels Region.

Flanders:

In 2010, the inspectors of the Department for Environment, Nature and Energy issued 500 official reports on potential violations (processen verbaal) across all areas of environment, as well as 17 injunctions and 37 regularisation orders.

In 2009, the Prosecutor's Office in Flanders received 6162 files related to environmental violations in 2009: out of these, 4131 (67%) were presented by the local or federal police and 1657 (27%) by the environmental inspection services. The office prosecuted 113 potential criminal infringements relating to water (e.g. groundwater or surface water contamination).

Wallonia:

Information is available on both all environmental actions and (in brackets) those relating to a clearly identified "water" component. As regards judicial measures, and based on figures provided above (Question No. 5), among the 4829 realized controls,
638 (81) resulted in injunctions, 497 (66) resulted in first warnings, 24 (3) in second warnings and 421 (91) resulted in a statement of offense (procès-verbal d’infraction). As regards administrative measures, 5 environmental permits were suspended, 36 (15) orders to stop the activities were notified and in 18 cases, seals were affixed on facilities.

7.5.4 Other mechanisms (in addition to inspections)
Flanders: Whenever a permit is to be renewed, authorities check in-depth (e.g. controls) the current situation.

In the Brussels Capital Region, monthly or yearly water analyses provide checks whether norms are respected.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation

**Brussels-Capital Region:**
Environmental permit violations are second category infringements punishable by an administrative fine or by a criminal sanction: a prison sentence of eight to 12 months and/or by a fine of EUR 2.5 to 2500. The fine is higher for facilities/actions with the greatest impact: in the case of an installation in class I.A., the fine varies from EUR 25 to 25000. Fines are doubled if the offence is committed deliberately or in the aim of making profit. (Ordonnance du 5 juin 1997 relative aux permis d’environnement, Art. 96 – Update March 16 2012).

The IBGE BIM may impose administrative fines.

**Flanders:**
Administrative sanctions can include a fine or suspension, termination or revocation of the environmental permit. Criminal sanctions can include a fine or imprisonment.

For instance, exploiting or changing a site/device without the required environmental permit is an offence punishable by a prison sentence of eight days to one year and a fine of 100 to 100 000 francs (EUR 2.5 to 2500 Euros).

Under Art.16.6.2. § 1 of the “Decreet tot aanvulling van het decreet van 5 april 1995 houdende algemene bepalingen inzake milieubeleid met een titel XVI « Toezicht, handhaving en veiligheidsmaatregelen, va isolatie van a permit can lead to prison sentences of one month to 5 years (if intentionally committed) or 3 years (if negligently committed) and/or to a fine of EUR 100 to EUR 350 000 (if negligent) or EUR 500 000 (if intentional).

**Walloon Region:**
Administrative and criminal sanctions: the level of sanctions depends on the severity of the violation.

First category infringements of the 1999 Decree on environmental permits are punished with a prison sentence of 10 to 15 years and/or with a fine of EUR 100 000 to EUR 10 000 000. This category includes environmental crimes deliberately committed, with the intent to harm and posing a threat to human health. No administrative sanction applies to this type of crime.
Second category infringements to the 1999 Decree on environmental permits are punished with a prison sentence of 8 days to 3 years and/or with a fine of EUR 100 to EUR 1 000 000. Administrative sanctions for this type of infringement varies from EUR 50 to 100 000.

Third category infringements to the 1999 Decree on environmental permits are punished with a prison sentence of 8 days to 6 months and/or with a fine of EUR 100 to EUR 100 000. Administrative sanctions for this type of infringement varies from EUR 50 to 10 000.

Fourth category infringements are punished with a fine of EUR 1 to EUR 1000. (5 juin 2008 - Décret relatif à la recherche, la constatation, la poursuite et la répression des infractions et les mesures de réparation en matière d'environnement, Art. 151). Administrative sanctions for this type of infringement varies from EUR 1 to 1 000.

7.6.2 Sanctions normally brought for water violations
The most commonly imposed sanctions in the Walloon Region are:

1) Procès-verbal judiciaire
2) Administrative fine
3) Warning
4) execution d’office.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
In the Brussels Capital Region, inspections are integrated in that they cover all sectors and prevent pollution moving unnoticed from one sector to the other.

In Flanders, the control system focuses on big problems but may therefore overlook issues such as the control of the quality of water. Cooperation among authorities is a strength.

In the Walloon Region, the main strength is the variety of tools for repression and the main weakness is the lack of cross-data analysis as the data come from different departments/directions of the DGARNE and as there is no i.e. common identifier for enterprises or individuals that could be used across all the databases.

The Walloon Region official said that the controls of agricultural support are the most successful because of the very precise European requirements and of the amounts of help allocated to farmers.

Other controls are triggered mainly by complaints and information to the administration. Specific controls (e.g. IPPC, SEVESO) are organised following demands from other services of the DGARNE, on the basis of the Catalogue for controls ("catalogue de service “Controles”, which include 45 fiches targeting specific controls).
7.7.2 Weaknesses of the system of inspections and enforcement
Areas for improvement could be the weaknesses highlighted above: in Flanders, the fact that some problems (e.g. quality of the water) may not be enough taken into account; in Wallonia, the lack of cross-data analysis.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is thought that the RBMPs have not strengthened enforcement.

Brussels Capital Region: the WFD had no specific influence on control procedures; it however impacted the conditions for discharges in surface water.

Flanders: the WFD set more stringent norms for permit granting.

Wallonia: the WFD led to conduct more controls, which include more criteria, for water quality. However, it did not impact on the way controls are conducted.
8 References

Compliance check of RBMPs - 'Assessment of RBMPs' questionnaires (1. Governance) for the BE RBDs.


RBMP p 49-64.

WISE Summary Reports for BE, Chapter 1 (Governance).

Brussels Capital Region:

IBGE-BIM Website; Contact with a IBGE-BIM official.

Ordinance of June 5, 1997, relative to environmental permits (Ordonnance du 5 juin 1997 relative aux permis d’environnement):

Ordinance of March 25, 1999 relative to the search, the recording, the legal proceedings and the repressive measures against infringements for environmental matters (Ordonnance du 25 mars 1999 relative à la recherche, la constatation, la poursuite et la répression des infractions en matière d’environnement):

Ordinance of March 7, 1991, relative to the prevention and the management of waste (Ordonnance du 7 mars 1991 relative à la prévention et à la gestion des déchets):

Ordonnance of March 1, 2012 modifying the Ordinance of March 7, 1991, relative to the prevention and the management of waste and the ordinance of March 25, 1999 relative to the search, the recording, the legal proceedings and the repressive measures against infringements for environmental matters (Ordonnance du 1er mars 2012 modifiant l’ordonnance du 7 mars 1991 relative à la prévention et à la gestion des déchets et l’ordonnance du 25 mars 1999 relative à la recherche, la constatation, la poursuite et la répression des infractions en matière d’environnement):

Federal State:

http://www.ejustice.just.fgov.be/wet/wet.htm

Flanders:

Milieuvergunning decreet, Art. 9

contact with a VMM official

Decret of June 28, 1985 relative to environmental permits (Art.9) (Decreet van 28 juni 1985 betreffende de milieuvergunning (Art.9))

December 2008 -in implementation of Title XVI of the Decree of 5 April 1995 concerning general provisions relating to environmental policy (Besluit van 12 December 2008 van de Vlaamse Regering tot uitvoering van titel XVI van het decreet van 5 april 1995 houdende algemene bepalingen inzake lieubeleid.)

Decree of December 21, 2007 in addition to the Decree of 5 April 1995 concerning general provisions relating to environmental policy, with title XVI “Supervision, enforcement and safety measures”.


Wallonia:

- The legislation on the environmental permits is explained on http://environnement.wallonie.be/aerw/pe/index.htm
- The body of Walloon environmental legislation is available on http://environnement.wallonie.be/aerw/dgrne/index.htm
- website of the SPW – Environment Portal of the DGARNE (Direction générale de l’Agriculture, des Ressources naturelles et de l’Environnement)
- http://environnement.wallonie.be/
- The Department for Police and Controls (DPC) : http://environnement.wallonie.be/administration/dpc.htm
- the DPC leaflet http://environnement.wallonie.be/administration/Plaquette_Polices_et_Controles.pdf

+ phone call to the Département des Permis et des Autorisations
+ Written information (answers to a questionnaire) provided by officials of the Department of Police and Controls / Département de la police et des controles – Walloon Region.

- 11 mars 1999 - Décret relatif au permis d'environnement; Code de l'environnement - Dispositions communes et générales (Livre I) [http://environnement.wallonie.be/legis/Codeenvironnement/codeLIEnvDispcommunesgenerales.htm]

- Written information (answers to a questionnaire) provided by officials of the Department of Police and Controls / Département de la police et des controles – Walloon Region

- Decree of March 11, 1999 relative to the environmental permit (Décret du 11 mars 1999 relatif au permis d'environnement (art. 77) [http://environnement.wallonie.be/aerw/pe/index.htm])

- Decree of June 5, 2008 relative to the search, the recording, the legal proceedings, the repressive measures against infringements and the repair measures for environmental matters. (art. 151). (Décret du 5 juin 2008 relatif à la recherche, la constatation, la poursuite et la répression des infractions et les mesures de réparation en matière d'environnement (art. 151)):
  [http://environnement.wallonie.be/legis/Codeenvironnement/codeDLI007.htm]

Essential information on river basin management plans are available at [http://www.integraalwaterbeleid.be/nl/stroomgebiedbeheerplannen]. The main source of information on the legal nature of RBMP is the Decision of the Flemish Government establishing the river basin management plans of the Schelde and Maas, available together with other environmental legislation at [http://www.emis.vito.be/actuele_wetgeving].
Member State Governance Fact Sheet: BULGARIA

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitoring</td>
<td>River Basin Directorates, Minister of Environment and Water</td>
<td>Executive Environmental Agency, National Institute of Meteorology and Hydrology, Institute of Oceanology, Executive Agency for Exploration and Maintenance of the River Danube, Regional Inspectorates for Protection and Control of Public Health</td>
</tr>
<tr>
<td>Permitting</td>
<td>Minister of Environment and Water, municipality mayors, Agency for Exploration and Maintenance of the River Danube, River Basin Directorates, Executive</td>
<td></td>
</tr>
<tr>
<td>Area of WFD-related responsibility</td>
<td>Competent Authority / main coordinating authorities</td>
<td>Supporting authorities</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------------------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Environmental Agency</td>
<td>Ministry of Environment and Water</td>
<td>River Basin Directorates, Regional Inspectorates on Environment and Waters, Executive Environmental Agency</td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.

Competent authorities for WFD implementation for water management in Bulgaria are determined by the Water Act (WA). These are - at the national level - the Ministry of Environment and Water, and at the basin level – the River Basin Directorates. (WISE)

### 1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

The operation of the four river basin directorates is coordinated and controlled by the Ministry of Environment and Water. (Water Act, art. 154(5), amended, SG No. 61/2010). Supreme Advisory Water Council has been established for the purpose of assisting the activity of the Minister of Environment and Water. The activities of the River Basin Directorates are assisted by the River Basin Council.

The Supreme Advisory Council on Water (Water Act, Article 9, paragraph 3), includes representatives of the Ministry of Environment and Water, Ministry of Regional Development and Public Works, Ministry of Interior (Civil Defence), Ministry of Economy, Energy and Tourism, Ministry of Transport, Communications and Information Technology, Ministry of Health, Ministry of Finance, the Bulgarian Academy of Sciences, municipalities, NGOs, related to water and others. (WISE)

The River Basin Council, a consultative body established under the Water Law, providing a platform for discussions, information exchange and coordination to stakeholders. The River Basin Council includes representatives of the regional offices of the central government agencies and the regional/municipal authorities, business and non-governmental sector. The Council works under a specific ordinance on its rules of procedure within the Water Law. The work of the Council and its files is open to the public (Compliance Check)

Both Councils have the task to review and accept the RBMPs.

Legal responsibilities are divided at national level (responsibilities of Ministry of Environment and Water - MoEW Water Directorate; Executive Environmental Agency under MoEW and RB level (responsibilities shared geographically among 4 RB Directorates/competent water authorities under MoEW) in compliance with the requirements of Bulgarian Water Law (1999 many amendments). (Compliance Check)
Competent authorities and their particular fields of activity are defined by the Water Law. The river basin management principle was firstly introduced by the Water Law in the year 2000 and further on by the transposition of the WFD; this had minor impact on the functions of the other governmental agencies rather than the ministry of Environment and Water.

There are a lot of responsibilities connected with the implementation of PoM / permit issuing, control / divided between local authorities (Municipalities), Governor’s Administration (Regional Administration) as well as between many sectorial institutions e.g. subdivisions of Ministry of Health /drinking water and bathing water/, Ministry of Agriculture and Food (nitrate pollution, irrigation, fishery and aquaculture), etc. (Compliance Check)

1.2 Authorities involved in preparing and approving the RBMPs
According to the Water Act the RBMPs have to be prepared by the River Basin directorates and to be approved by the Council of Ministers.

The amendment to the Water Act adopted in 2010 provided for measures to be taken to ensure the national coordination in the preparation of the RBMPs in the process of the approval procedure by the Council of Ministers.

The coordination has been mainly regarding the content of the RBMPs, PoM, the deadlines for preparation and the work programme and the timetables of public consultations with the stakeholders.

Regarding other topics, the coordination was weaker or missing.

In spite of coordination on public consultations, the level of public consultations was varied due to the different degrees of detail in the draft RBMPs.

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

The authorities that request monitoring are described below.

The Directors of RBDs develop Monitoring Programmes and define the monitoring sites, both approved by the Minister of Environment and Water
The chemical monitoring and part of the biological monitoring is performed by the Executive Environmental Agency /ExEA/ on the basis of their laboratory equipment, staff and resources.

The National Institute of Meteorology and Hydrology /NIMH/ to the Bulgarian Academy of Science performs the quantitative monitoring on the basis of contract with the MOEW.

The Institute of Oceanology /IO/ performs the biological monitoring of the sea waters.

The remaining part of the biological monitoring, which was not performed by ExEA and IO, was given for contracted services.

The Executive Agency for Exploration and Maintenance of the River Danube performs the quantitative monitoring of the Danube River on the basis of their own resources.

The Regional Inspectorates for Protection and Control of Public Health under the Ministry of Health perform the monitoring the quality of drinking water and bathing water (WISE).

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

Different authorities are responsible for surveillance, operational and investigative monitoring, as outlined in the table below (Table 2).

<table>
<thead>
<tr>
<th>Type of Monitoring</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveillance Monitoring</td>
<td>BDs /responsible for planning/ ExEA, NIMH / responsible for performance</td>
</tr>
<tr>
<td>Operational Monitoring</td>
<td>BDs /responsible for planning/ ExEA, / responsible for performance</td>
</tr>
<tr>
<td>Investigative Monitoring</td>
<td>BDs /responsible for planning/ Envisaged for contracted services</td>
</tr>
</tbody>
</table>

Because different authorities are responsible for the three types of monitoring, there is a requirement for coordination. The four River Basin Directorates provide the coordination between the implementers of the monitoring programs.

### 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.
3.1 Integration with other Directives / Policies

Sectors such as agriculture and industry have a direct impact on water. Therefore, this section looks at several areas in which water authorities work with authorities in other areas.

The responsible authorities for each directive / policy are named below (Table 3).

Table 3: Summary of responsible authorities for different directives & policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Ministry of Environment and Water (MOEW), Basin Directorates</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>MOEW, Basin Directorates (BDs), Ministry of Agriculture and Food (MAF), Ministry of Health, Bulgarian Food Safety Agency,</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Ministry of Health, Regional Inspectorate for Protection and Control of Public Health (RIPCPH), Basin Directorates</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of Health, RIPCPH, BDs</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>MOEW and 4 BDs</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>MOEW</td>
</tr>
<tr>
<td>Climate</td>
<td>MOEW</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority.

The Infrastructural projects for Waste Water Treatment Plants construction or rehabilitation are developed on the basis of water use permits. The projects are reviewed/approved by an expert board on a municipal, regional or national level, where representatives of the WFD competent authorities are usually invited.

The main relationships and coordination between the Ministry of Health and RIPCPH on one hand and the Basin Directorates on the other hand in implementing both the WFD and the bathing water Directive are defined in Ordinance № 5 of 30.05.2008 on the quality of bathing water.

The main relationships and coordination between the Ministry of Health and RIPCPH on one hand and the Basin Directorates on the other hand in implementing both the WFD and the drinking water Directive are defined in Ordinance № 1 of 10.10.2007 for the
study and protection of groundwater, SG No.87 /2007 and in Ordinance No. 12 from 18.06.2002 on the quality requirements for surface water intended for drinking water.

The main relationships and coordination between MOEW, Ministry of Agriculture and Food (MAF) and the Basin Directorates (BD) are defined in Ordinance N2/2007 on the protection of waters against pollution caused by nitrates from agricultural sources.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 4).

**Table 4: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of agriculture and food</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>Ministry of Regional Development and Public Works, Ministry of Health</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td></td>
<td>Ministry of Regional Development and Public Works</td>
</tr>
<tr>
<td>Energy</td>
<td>Ministry of Economy, Energy and Tourism</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Information Technology and Communications</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>Ministry of environment and water</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>Ministry of environment and water, Ministry of Economy, Energy and Tourism</td>
</tr>
<tr>
<td>Mining</td>
<td>Ministry of Economy, Energy and Tourism</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The preparation of RBMPs is coordinated and consistent with these authorities who are required for information, opinions and proposals for measures which should be reflected and included in the RBMP. These authorities were involved in process of public consultations.

### 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

The involvement of stakeholders is provided through the Basin Councils created for each of the four river basins. Art. 156, para 2, of the Water Act stipulates that the Basin Councils include representatives of the state administration (up to 20%), the local administration (up to 30%), the water users (up to 30%) and not-for-profit legal entities.
within the scope of the river basin, as well as representatives of research organizations dealing with water issues (for both - up to 20%). The Basin Councils are state-cum-public advisory commissions i.e. they include representatives of both state bodies and the public, assisting the operation and activities of the relevant Basin Directorates. The operation, structure, organisation of operations and staff size of the Basin Councils is determined by Organisational Rules, issued by the Minister of Environment and Water and promulgated in the State Gazette No 25 of 2003. The Basin Councils review and provide assessments, recommendations and proposals related to the development of the RBMPs, their public consultations and final adoption. The Councils have the same functions with regard to the review of the RBMPs. With regard to implementation, the Basin Councils have the right to make proposals on the annual plans of the respective River Basin Directorates in accordance with the RBMPs.

The involvement of stakeholders is also provided through the Supreme Advisory Water Board established to the Ministry of Environment and Water (Art. 9, para 2 and 3 of the Water Act). The Supreme Advisory Water Board includes representatives of a number of Ministries (Regional Development and Public Works, Agriculture and Food, Economy, Energy and Tourism, Transport, Information technology and Communications, Health, Finance, and Interior), the Bulgarian Academy of Sciences, the municipalities, not-for-profit legal entities directly involved in water issues (e.g. NGOs – three representatives) and other bodies. The Supreme Board reviews and provides assessments, recommendations and proposals related to the development of the RBMPs before and after their public consultations.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

New authorities have been created as a result of the WFD. The four River Basin Directorates were established in 2002 as competent authorities for water management at river basin level.

Before the establishment of the River Basin Directorates and even before the approval of WFD, in 1997 all the water related activities in Bulgaria were compiled into the Ministry of Environment and Water through inclusion of the National Water Council and of the Committee of Geology.

By the establishment of the River Basin Directorates there the competences related to waters have been re-distributed between the RBDs and the Regional Inspectorates of Environment and Water.

5.2 Organisation structure

The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the RBMPs is regulated in relation to other decisions and planning documents (see details below).

The RBMPs (and their updates) are adopted by the Council of Ministers on a proposal of the Minister of Environment and Water (Art. 160 of the Water Act) by decision. This requirement results from an amendment to the Water Act from 2010 (State Gazette No 61 of 2010). Before, the RBMPs were endorsed by the Minister of Environment and Water by order. The programmes of measures are developed within the framework of the RBMPs (art. 157r of the Water Act) and, therefore, are adopted by the Council of...
Ministers as part of the RBMPs. The RBMPs (and the PoMs) currently in force have been endorsed by the Minister of Environment on 22 March 2010, according to the ‘old’ procedure.

6.1.1 Legal effect
With the amendments to the Water Act of 2010, the rank of the RBMPs has been upgraded as these are to be adopted by the Council of Ministers (by decision). The RBMPs adopted before the above-mentioned amendments to the Water Act were only endorsed by order of the Minister of Environment and Water. Adoption of the RBMPs by a decision of the Council of Ministers ensures wider consultations with all Ministries. The RBMP is a planning document. The decision for its adoption is a sub-legislative act, thus it cannot contradict laws. It covers a specific river basin and as such should respect nation-wide planning documents such as the National Environmental Strategy and the National Strategy for management and development of the water sector (both adopted by the National Assembly).

Art. 149, paras 2 and 3, of the Water Act stipulates that the RBMPs should be ‘connected’ to other plans within the scope of the relevant territorial division, including regional development plans, spatial-development, forest-management, park-management and other such plans. Any plan which does not conform to the Water Act and to the RBMPs could be modified by the Council of Ministers on a proposal by the Minister of Environment and Water. While the term ‘connect’ involves a form of mutual obligation (RBMP should conform to other plans and these should conform to RBMP), the second provision clearly gives precedence to RBMPs as it provides for the possibility to amend other plans which are not in conformity with the RBMPs.

Art. 10b, para 1.8 of the Water Act stipulates that short- and medium-term programmes for feasibility studies, design and construction of water supply and sewerage systems constituting public state property should be approved by the Minister of Regional Development and Public Works in accordance with the RBMPs. The relevant Municipal Councils adopt programmes for the development of water supply and sewerage within the territory of a given municipality in accordance with the RBMPs (Art. 10c, para1.1). The binding effect goes for the administration which, when taking relevant decisions related to water issues, should conform to the RBMPs. There is no specific provision on the binding effect on third parties. However, when permits (for water abstraction and water body use) are issued, these need to take into account the RBMPs. Consequently, there is an indirect binding effect for permit users (incl. industry, agricultural users, etc.)

The environmental objectives being part of the RBMPs have the same status as the entire plan.

6.1.2 Legal status in relation to individual decisions
As mentioned above, the RBMPs should be connected to other plans within the scope of the relevant territorial division, including regional development plans, spatial-development, forest-management, park-management and other such plans. Any plan which does not conform to the Water Act and to the RBMPs could be modified by the Council of Ministers on a proposal by the Minister of Environment and Water. However, there is no explicit provision requiring the review of existing permits in line with environmental objectives, nor there is a timing specified. For existing permits, there is a general requirement that these should be put in conformity with the provisions of the amended Water Act (Pare 10 of the Transitional and Final Provisions of the Water Act).
The timing specified varies between one to three years depending of the type of permit (e.g. water abstraction or water body use).

The following subsections describe how the RBMP is included in the permitting decision process: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Neither the Water Act, nor the Environmental Protection Act set any requirements with regard to the compatibility of the hydropower installations permits with the RBMP (environmental objectives). The Environmental Protection Act stipulates that projects for construction of hydropower installation are subject to screening/scoping under the EIA procedure. In case EIA is required, any such project is consulted within the Higher Expert Ecological Council in which representatives of the River Basin Directorates take part.

Construction of hydropower installations is regulated under the Spatial Planning Act and its sub-legislative acts (namely Regulation No 14 of 2005 on the technical rules and norms for engineering, construction and use of electric energy installations). Such a construction needs to respect all the legal requirements in the field of environment (including the provisions of the Water Act). In accordance with the Spatial Planning Act, a representative of the Ministry of Environment and Water takes part in the work in the National Expert Council on spatial planning and regional policy when, *inter alia*, investment proposals for construction and rehabilitation of hydropower installations are being reviewed. The Director of the relevant Basin Directorate takes part in the work of the Regional Councils on spatial planning when investment proposals for construction and rehabilitation of hydropower installations (for which a permit has been issued in accordance with the Water Act) are being reviewed.

Energy production from hydropower installations with a capacity over 5MW falls under the scope of the Energy Law and are subject to licensing. The license is granted by the State Energy and Water Regulatory Commission. Licenses are granted for a duration of 35 years. When applying for a license under the Energy Law, the relevant applicant needs to prove that the installation respects the legal requirements in the field of environment (including the provisions of the Water Act) (Art. 40 of the Energy Law and Regulation on the regulation of the energy activities of 2004).

**Abstraction for agriculture**

Abstraction for agricultural needs is subject to a permitting regime under Title VI of the Water Act. Art. 55.3 of the Water Act stipulates that when issuing a permit, the relevant authorities need to take into account the environmental objectives determined for a given water body and the measures for achieving these objectives determined in the RBMPs. This provision has been introduced in the Water Act with its amendments in 2010. Permits for water body use are issued for the period of validity of the relevant RBMP and are being reviewed annually. Art. 62, para 1, of the Water Act requires the permit-issuing authorities to take a decision on a permit request for water body use and water abstraction taking into account the RBMPs already in force. For existing permits, there is a general requirement that these should be put in conformity with the provisions of the amended Water Act (Pare 10 of the Transitional and Final Provisions of the Water
Act). The timing specified varies between one to three years depending of the type of permit (e.g. water abstraction or water body use).

**IPPC and other industrial installations**

The issuing of integrated permits is regulated under Title VII, Chapter II, of the Environmental Protection Act and the Regulation for issuing of integrated permits of 2009. An integrated permit is issued by a relevant authority (either the Executive Director of the Executive Environmental Agency or the Director of a relevant Regional Environmental Inspectorate, both under the Ministry of Environment and Water) after consultations with the Director of the relevant River Basin Directorate in order to ensure compatibility of the integrated permit with the RBMP.

Although there are no specific provisions requiring the integrated permits to be reviewed in line with the environmental objectives, during the consultation procedure an integrated permit request is screened against the provisions of the relevant RBMP. However, there is no timeline for revision of existing permits. If an existing integrated permit needs to be revised, the same consultation procedure is applied, including consultation with the River Basin Directorate.

**6.2 Relationship with other sectoral policy plans**

As mentioned above, the Water Act stipulates that the RBMPs should be connected to other plans within the scope of the relevant territorial division, including regional development plans, spatial-development, forest-management, park-management and other such plans. Besides this general provision for compatibility, no provisions requiring the revision of other sectoral policy plans specifically with the RBMPs could be found in other sectoral laws. Again under the Water Act, any plan which does not conform to the Water Act and to the RBMPs could be modified by the Council of Ministers on a proposal by the Minister of Environment and Water. However, there is no timeline envisaged for these possible modifications.

Procedural rules (mainly consultations and coordination) ensure that the relevant requirements of the environmental legislation (including the RBMPs) are taken into account. The EIA and SEA procedures under the Environmental Protection Act ensure proper assessment of projects, plans and programmes through consultations with the Basin Directorates. Under the Spatial Planning Act and the Rules for its implementation, representatives of the Ministry of Environmental and Water and its regional structures (including the Basin Directorates) take part in the Councils on regional development established at national and regional level which main task is the development, adoption and implementation of strategies for regional development (four different types depending on the territorial coverage). Thus, the basin authorities are involved in the decision-making process of the spatial planning/regional development documents.

The implementation of the relevant national legislation transposing the Floods Directive is ensured by the Basin Directorates at the level of river basin district. Title IX, Chapters II-V, of the Water Act prescribe the responsibilities of the Directors of the Basin Directorate with regard to the preliminary flood risk assessment, preparation of flood risk maps and flood hazard maps, establishment of flood risk management plans and relevant public information and consultation. Art. 146o, para 1, requires flood risk management plans to be reviewed and updated every 6 years. Para 3 of the same article
requires that the first flood risk management plans are established in coordination with the update of the river basin management plans and are included in the latter.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

The Minister of Environment and Water is responsible for issuing the permits for water abstraction from the dams covered under Annex 1 in Water Act; transfer of waters between different basin management districts; use of a water site for the dams covered under Annex 1, including for wastewater discharge; input of pollutants into groundwater in the cases of injection of carbon dioxide, natural gas or liquefied petroleum gas into groundwater sites.

The municipality mayor after a resolution of the Municipal Council is responsible for issuing the permits for abstraction of waters, including from dam lakes and micro-dam lakes constituting public municipal property, as well as from occurrences of mineral waters constituting exclusive state property, which have been allocated gratuitously to the municipalities for management and use; for use of water sites constituting public municipal property, with the exception of the permits for wastewater discharges.

The Executive Director of the Agency for Exploration and Maintenance of the River Danube - for use of a water site for extraction of alluvium deposits from the River Danube.

In all other cases of water abstraction and water use outside the above mentioned - the Directors of the Basin Directorates are responsible for issuing the permits for abstraction, impoundment, point source discharges, hydromorphological alterations.

The Executive Director of the Executive Environmental Agency issues the integrated/complex permits for installations under the IPPC Directive. The construction and operation of new installations and facilities of industrial activities of the categories listed in Annex 4 of the Bulgarian Environmental Protection Act (EPA), and the operation of existing installations and facilities of the said categories are admitted after issuance of an integrated permit. The submission of an application for the issuance of an integrated permit or the existence of an integrated permit for construction and operation of new facilities and installations and/or for operation of existing facilities and installations repeals the requirements for issuance and obtaining of the following permits of the Water Act: a water site use permit for construction of new, remodelling or modernization of existing systems and facilities for hydraulic-engineering port facilities as well as a water site use permit for wastewater discharge into the surface waters. The Executive
Director of the Executive Environment Agency is the authority competent to issue, review, modify, update and revoke of the permits. Integrated permits outside the scope of Annex 4 are issued by the competent Regional Inspectorate of Environment and Water (RIEW) director.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

The most part of the permits are issued by the competent authorities for WFD implementation. The remaining parts of permits are issued in accordance with the requirements and constraints of the River Basin Management Plans and the permits are sent to the WFD Competent Authority.

The responsible authorities for different water users are indicated in the table below (Table 5).

**Table 5: Permits and the Competent Authorities**

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>The Minister of Environment and water for issuing the permits for water abstraction from the dams covered under Annex 1 under the Water Act. (Water Act).</td>
</tr>
<tr>
<td></td>
<td>The municipality mayor for issuing the permits for abstraction of waters, including from dam lakes and micro-dam lakes constituting public municipal property, as well as from occurrences of mineral waters. (last Water Act amendments.</td>
</tr>
<tr>
<td></td>
<td>For the remaining cases the Director of the Basin Directorate is responsible for issuing permits for water abstraction.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>The Director of the Basin Directorate</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>The Minister of Environment and water is responsible for issuing the permits for wastewater discharges into the dams covered under Annex 1. (Water Act).</td>
</tr>
<tr>
<td></td>
<td>The Directors of the River Basin Directorates are responsible for issuing the permits for wastewater discharges into surface water for all other cases. (Water Act).</td>
</tr>
<tr>
<td></td>
<td>The Executive Director of the Executive Environmental Agency issues the integrated/complex permits for installations under the IPPC Directive.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>The Minister of Environment and Water, the Minister of Agriculture and Food and the River Basin Directors are responsible for the Directive 91/676/EEC implementation.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>The Director of the River Basin Directorate for all the cases. Specifically the Executive Director of the Agency for Exploration and Maintenance of the River Danube issues permits for extraction of alluvium deposits (gravel, sands, etc.) from the Danube River.</td>
</tr>
</tbody>
</table>
7.2 Permit applications
There is no difference in procedures for issuing different types of permits according to Water Law.

The procedure is:

1. Applying a request to initiate the procedure for issuing the required permit. The application must consist of detail information about the applicant, submitted by the applicant and details of actual water usage / abstraction.

2. In the term of 20 days, competent authorities check the compliance of the application form and make an assessment of compatibility with the Water Law requirements and the relevant RBMP. The assessment is an integral part of the documentation.

3. When gaps and incompliances are found, the competent authorities give two months to complete them. If the documents are not completed on time, the procedure finishes by the rejection of permit issuing and the applicant is notified.

4. If the document is fully completed, competent authorities prepare an announcement for public notice, which is sent to the municipality.

5. In the term of 14 days after expiry of the notice, in case that there are no objections or proposal for the new conditions, the Authority issues the permit.

   If there are any objections received, the authority considers their relevance and decides to issue permits or refuse.

6. The permit or refusal may be appealed in the term of 14 days from the date of their receipt.

The process applies for all water types and scales.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

The River Basin Directors / Water resources managers are responsible for the development of the RBMPs and for the issuing of the major part of permits under the Water Law. The permits issued under the Water Act as well as the integrated permits / IPPC / under environmental law (EPA) are mandatory basis for the design and issuance of the building permits.

The applicants could be involved only in the Councils supporting the water management authorities / the MOEW and 4 RB Directorates. These Councils have only consultative functions, and this way, possible applicants are not included into the decision-making process for the permission of activity/pressure.

7.3 Enforcement of permits: authorities
Several authorities under the Ministry of Environment and Water carry out the enforcement of water-related permits in Bulgaria: the four River Basin Directorates, the 16 Regional Inspectorates on Environment and Waters, and the Executive Environmental Agency.
In addition, the Ministry of Health has enforcement powers related to drinking water and bathing water (however, no permits are associated with requirements under this legislation).

It can be noted that municipalities issue permits for mineral waters and small dams, but control and enforcement of these permits is carried out by the River Basin Directorates.

The Regional Inspectorates of Environment and Waters are organised by administrative area (counties).

River Basin Directorates are organised by water basin.

There are separate authorities responsible for enforcement of different economic sectors. In Bulgaria the difference is according to the type of permit and not according to the sector/industry.

Enforcement for all water abstractions (including in both agriculture and industry) is performed by the River Basin Directorates.

Point discharges of large farms, similar to industry, are controlled by the Regional Inspectorates. Mines and hydroelectric plants are not considered different from industry for the sake of enforcements of water permits.

The Regional Inspectorates on Environment and Water, together with the BDs, are responsible for control activities and inspections to the permits for discharges for all industrial sectors. In all other cases the River Basin Directors are responsible for enforcement of conditions of all permits issued under the Water Act.

There are separate authorities responsible for the enforcement of different types of water-related permits.

- All permits for abstraction are enforced by the River Basin Directorates.
- All permits for discharge are controlled by the Regional Inspectorates. RBDs are only involved in calculating annual discharge fees.
- IPPC permits are issued by the Executive Environmental Agency. Before the permit is issued, the part on water discharges is agreed with the River Basin Directorates. The Regional Inspectorate leads on controls/inspections, but a representative of the Basin Directorate participates and is dedicated to control of the water part of the permit.
- All permits for gravel and sediment extraction are controlled by the River Basin Directorates.
- All permits issued by the municipalities for abstraction of mineral water and small municipal dams are controlled by the River Basin Directorates.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities

IPPC permits are prepared in coordination between the River Basin Directorates and the Regional Inspectorates. Coordination is good and they participate in the inspections on the day dedicated to waters
Regarding other discharge permits, the Regional Inspectorates perform the visits and later send the information to the River Basin Directorates who undertake corrective measures.

There is no special mechanism for coordination for enforcement among these bodies (in particular between Regional Inspectorates, the Ministry and the River Basin Directorates) but in practice coordination is carried out: mechanisms follow Rules of Procedure, work organization and staff of the River Basin Directorates and the Rules on the structure and operation of Regional Inspectorates of Environment and Water.

Coordination can be significantly improved. In particular, all communication is by mail but an electronic system is being prepared (through a project funded by Norway). As a result of slow communication, currently there is a significant time lag between the inspection itself and the corrective measures.

The other reason for the slow coordination is the fact that the River Basin Directorates were created more recently and many water experts from the Regional Inspectorates went to work there. As a result, there are few water experts remaining in the Regional Inspectorates.

Regarding coordination with other bodies: police are called on to participate in inspection activities where there is some risk and where there is a need to identify the perpetrators (legally inspectors cannot request IDs). This is often the case for inspections of permits for the extraction of inert materials.

Some common inspections are carried out with the municipalities: these are mainly connected with maintenance of river beds and of dams (not connected with permit conditions).

### 7.4.2 Between enforcement and water management authorities

The enforcement authorities and water management authorities are not separate entities. The Ministry of Environment and Waters is the leading authority for water management, and its Regional Inspectorates are enforcement authorities for IPPC permits. Many water management tasks are carried out by the four River Basin Directorates, which also are enforcement authorities for water abstraction permits under the Water Act.

The Ministry can provide guidance on inspections. For example, the previous government organised monthly campaigns for certain types of control. The current government is letting RBD focus on planned activities and there are no inspections campaigns.

### 7.5 Enforcement actions

#### 7.5.1 Number of inspectors

Altogether 62 in the River Basin Directorates and 37 in the Regional Inspectorates.

In Bulgaria there is no separation by sectors. All of the above inspectors work on all kinds of sectors and installations.

#### 7.5.2 Number of inspections

The River Basin Directorates carried out a total of 9599 inspections in 2011 out of which 7399 planned ones and the rest unplanned. Out of the 9599 inspections 8284 ones are
on the spot and the rest on the basis of documents. The Regional Inspectorates carried out a total of 2862 inspections\(^{27}\) in water across all sectors, including water, in 2011. (data specifically collected by the Ministry of Environment and Waters for this questionnaire)

Due to low available resources a big part of this control activity is not carried out in person but only on the basis of reporting. Usually it is less than 10% per RBD with the exception of the RBD West Aegean Sea District where more than 60% of the control activity is on the basis of documents.

Number of water-related inspections for industry: 3614 inspections out of 9599 for 2011.

Number of water-related inspections for agriculture: 560 inspections out of 9599 for 2011.

Number of water-related inspections for other sectors: 4498 inspections out of 9599 for 2011.

7.5.3 Number of infringement actions
The River basin Directorates issued over 5700 mandatory instructions (requiring violators to correct irregularities) in 2011. They issued 300 administrative sanctions: these represented fines with a total value of 405,690 BGN (208,050 Euros).

The Regional Environmental Inspectorates issued 132 administrative sanctions related to wastewater in 2011, plus 30 administrative sanctions related to water for IPPC permits: the total amount of fines was 550,000 BGN (about 282,000 Euros) for the wastewater sanctions, and 321,000 BGN (about 164,600 Euros) for the IPPC sanctions related to water.

As noted above, the Regional Environmental Inspectorates issued 30 administrative sanctions related to water for IPPC permits, these led to about 321,000 BGN (about 160,000 Euros) in sanctions. (Further data on infringement actions related to industry were not found.)

Data on infringement actions for agriculture and other sectors were not found.

7.5.4 Other mechanisms (in addition to inspections)
IPPC permits are controlled through inspections and also, where appropriate and available, through: annual reports, for EMAS, and checking of fulfilment of conditions vis-a-vis EIA decisions.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
Both administrative and criminal sanctions are set in legislation.

As seen above, the main sanctions that have been brought for violations of water permits have been administrative, and in particular fines.

\textit{Administrative sanctions}

\(^{27}\) Data are for only eight out of fifteen Regional Inspectorates.
Art. 200 of the Water Law sets out a range of possible fines as administrative sanctions. These include the following:

1. uses waters without the appropriate legal grounds or in departure from the conditions provided for in the permit or contract:
   a. of a quantity under 1 litre per second: BGN 150 (EUR 77) or exceeding this amount but not exceeding BGN 1,000 (EUR 513);
   b. of a quantity from 1 litre per second to 10 litres per second: BGN 500 (EUR 256) or exceeding this amount but not exceeding BGN 5,000 (EUR 2564);
   c. of a quantity from 10 litres per second to 100 litres per second: BGN 1000 (EUR 513) or exceeding this amount but not exceeding BGN 10,000 (EUR 5128);
   d. of a quantity over 100 litres per second: BGN 10,000 (EUR 5128) or exceeding this amount but not exceeding BGN 25,000 (EUR 12 820).
2. uses water sites, water development facilities and systems or constructs such sites, facilities and systems without the appropriate legal grounds or in departure from the conditions provided for in the permit: BGN 2,000 (EUR 1026) or exceeding this amount but not exceeding BGN 10,000 (EUR 5128);

For violations of IPPC permits, the Environmental Protection Act and Ordinance on the Procedures for Determining and Imposing Sanctions for Harming or Polluting the Environment over the limit values set out a series of administrative sanctions.

**Criminal sanctions**

In addition, criminal sanctions can be applied for severe offences. For example, pollution of waters (including groundwater and seas) that renders them dangerous to humans, animals or plants or unit for use can be punished by imprisonment of one to five years and by a fine of 5000 to 30,000 BGN (2564 to 15,385 Euros) (Art. 352, Penal Code).

**Application**

The sanctions are imposed in a progressive manner: first times it is lower and the amount increases with the degree and frequency of infringements. Moreover, where appropriate inspectors will issue a mandatory instruction before imposing sanctions.

The largest number of sanctions is associated with abstraction permits as the number of abstraction permits is the highest. The sanctions are for non-compliance with the permits, lack of self monitoring, etc.

### 7.6.2 Sanctions normally brought for water violations

No information found.

### 7.7 Strengths, weaknesses and changes to the enforcement system

#### 7.7.1 Strengths of the system of inspections and enforcement

One of the main strengths of the system of inspections and enforcement are the joint activities between RBDs and the relevant RIEWs concerning permits for waste water discharges. These joint activities provide a good possibility to check in parallel the permit
conditions implementation as well as the relevant technologies of the enterprises and the identification of measures to reduce the pollution at the source.

The quality of experts is very good, they are knowledgeable, experienced and well-equipped.

7.7.2 Weaknesses of the system of inspections and enforcement
Key areas for improvement are:

- the effectiveness of the controls performed, especially for large water users
- the number of the site visits (which depends on resources available)
- the content of the site visits
- strengthening preventive control.
- the flow of communication between the Regional Inspectorates and the River Basin Directorates.

In addition, the number of inspectors within the RBDs is insufficient and instead of 150-180 inspections per inspector per annum the number is around 300 per inspector. They are not able to control each permit per year despite a legal requirement to do so. For example in the East Aegean Sea District they are able to control around 1500 out of 5000 permits. It has to be noted though that some of these 5000 permits are not actually used.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is thought that the RBMPs have strengthened enforcement.

With the approval of the first RBMPs, some restrictions and requirements were introduced concerning specific types of permits (especially for small hydropower plants, for abstraction of sand and gravel from river beds etc). Additional planned inspections have been performed and on the basis of the compiled information and the environmental objectives, some of the permits were reviewed and new conditions were given to the applicants.

Another positive fact is that before the entering into force of the WFD, the Regional Inspectorates were dealing mainly with enforcement of discharge permits and did not have resources available for other issues. The situation has improved since then with the creation of the river basin directorates, which have freed capacity of the regional inspectorates.
8 References

Administrative staff schedule.

Annual reports of BDs as month reports are available in the web site of BDs.

BG response to commission feedback letter.

Compliance check of RBMPs - 'assessment of RBMPs' questionnaires (1. Governance) for the BG RBDS.

Chapter IX and X from RBMS

Data specifically collected by Ministry of Environment and Waters for the questionnaire

Environmental Protection Act (EPA)


Interview with Valcho Karajov, Head of Department on Control and Management within the River Basin Directorate (East Aegean Sea District) (03.07.2012)

Ordinance no. 1 of 04.11.2011 on the water monitoring.

Ordinance N1/2007 on the Ground Water investigation, use and protection, SG No. 67/2007;

Ordinance N2/2007 on the protection of waters against pollution caused by nitrates from agricultural sources, SG No. 27/2008;

Ordinance № 2 of 8.06.2011 on issuing permits for discharging wastewater into water bodies and setting individual emission limits for point sources of pollution, SG No. 47/2011;

Ordinance for use of surface water, SG No. 56/2011;

Ordinance № 18 of 27.05.2009 on the quality of water for irrigation of crops, SG No. 43/2009;

Ordinance for the terms and the procedure for the issuance of an integrated permit, SG No. 80/2009

Regulation on the management and activities of Regional Inspectorates on Environment and Waters, 2011.


Water act.

Web sites of the Ministry of Environment and Waters, the Regional Inspectorates for Environment and Water, ExEA and the River Basin Directorates

Wise summary reports for BG, chapter 1 (governance).

Information on the river basin management plans is available on the web-sites of the four River Basin Directorates:

- Danube - http://www.dunavbd.org/
- East Aegean - http://www.bd-ibr.org/
- West Aegean - http://www.wabd.bg/


1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Minister of Agriculture, Natural Resources and Environment (MANRE)</td>
<td>MANRE; Council of Ministers of the Republic of Cyprus (CoM)</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>MANRE; Council of Ministers of the Republic of Cyprus (CoM)</td>
<td>Advisory Committee</td>
</tr>
<tr>
<td>Monitoring</td>
<td>MANRE</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>MANRE (Water Development Department, Department of Environment)</td>
<td>Ministry of Labour and Social Insurance</td>
</tr>
<tr>
<td>Enforcement</td>
<td>MANRE (Water Development Department, Department of Environment)</td>
<td>Ministry of Labour and Social Insurance</td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.

The competent authority is the Minister of Agriculture, Natural Resources and Environment (MANRE) of the Government of the Republic of Cyprus. The competent authority has responsibility over the entire River Basin District.
Please note, however, that according to the provisions of Article 1 of Protocol No 10 on Cyprus, the application of the acquis is suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. Furthermore, the Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Cyprus concerning responsibility for the implementation of the Protocol on the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus provides for the application of the WFD in the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus.

No changes have been reported since the publication of the RBMP (in 2011).

1.1 **Division of responsibilities**

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

MANRE has full responsibility for both surface waters (all water categories) as well as groundwater.

1.2 **Authorities involved in preparing and approving the RBMPs**

The development/preparation of the programme of measures and the preparation of the river basin management plans are coordinated by the competent authority (MANRE) - and therein specifically the "department of water resource development Water Development Department" - and approved by the Council of Ministers of the Republic of Cyprus (CoM).

There are no multiple authorities involved, but the "general water policy" is set by the council of ministers based on proposals by the Minister of Agriculture, Natural Resources and Environment (MANRE). In addition, an Advisory Committee is in place, made of 16 members from all stakeholders (including representatives of other ministries and state institutions) with the objective of advising the Minister of Agriculture Natural Resources and the Environment on the general water policy, including water resources allocation according to use and regional demands.

1.3 **Authorities responsible for Programmes of Measures**

The development/preparation of the programme of measures and the preparation of the river basin management plans are coordinated by the competent authority (MANRE) - and therein specifically the Water Development Department - and approved by the Council of Ministers of the Republic of Cyprus (CoM).

There are no multiple authorities involved, but the "general water policy" is set by the council of ministers based on proposals by the minister of Agriculture, Natural Resources and Environment (MANRE). In addition, an Advisory Committee is in place, made of 14 members from all stakeholders (including representatives of other ministries and state institutions) with the objective of advising the Minister of Agriculture Natural Resources and the Environment on the general water policy, including water resources allocation according to use and regional demands.
2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The competent authority (MANRE) is responsible for (requesting and) undertaking the monitoring in all water categories; it is undertaken by its own staff (of the MANRE’s Water Development Department).

Monitoring is undertaken through the authority’s own facilities and staff.

MANRE is responsible for all three types of monitoring (surveillance, operational and investigative).

3 Integration
The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies
The responsible authorities for each directive / policy are named in the table below (Table 2).

Table 2: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>MANRE (DoE, WDD) for all geographical scales.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>MANRE (DoE, Department of Agriculture (DoA), WDD, Geological Survey Department (GSD)) for all geographical scales.</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>MANRE(DoE) for all geographical scales.</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of Health for all geographical scales.</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>MANRE/WDD for all geographical scales.</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>MANRE (Department of Fisheries and Marine Research (DFMR)) for all geographical scales.</td>
</tr>
<tr>
<td>Habitats</td>
<td>MANRE (DoE, Game Fund) for all geographical scales.</td>
</tr>
</tbody>
</table>
### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 3).

#### Table 3: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>MANRE (DoA).</td>
</tr>
<tr>
<td>Water</td>
<td>ManRE /DoE, WDD.</td>
</tr>
<tr>
<td></td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>Ministry of Health</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td>Energy</td>
<td>The Energy Service of the Ministry of Commerce, Industry and Tourism has the overall responsibility of Energy in Cyprus.</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Communications and Works.</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>MANRE/DoE (as far as water is concerned).</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>MANRE/DoE (as far as water is concerned).</td>
</tr>
<tr>
<td>Mining</td>
<td>MANRE /DoE, Mine Service (MS), GSD (as far as possible pollution of water bodies/groundwater is concerned).</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. Communication and coordination between ministries (such as between the three above mentioned which are responsible for drinking water, energy and transport, with the competent authority, another ministry) happens through the Council of Ministers, where all eleven ministries are participating.

### 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

Article 22 par. 3 of Law 13(I)/2004 describes the procedure for public consultation and information that has to be followed for the development of the RBMP and for each reviewing and update of the RBMP. In particular, the relevant Article states that:
In order to develop the RBMP, the competent authority ensures (Water Development Department) that previously the following information will be published and be available to the public, including the people who use the water, in order to express their comments:

a) a timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, at least three years before the beginning of the period to which the plan refers; b) an interim overview of the significant water management issues identified in the river basin, at least two years before the beginning of the period to which the plan refers;

c) draft copies of the river basin management plan, at least one year before the beginning of the period to which the plan refers

In other words, the Cypriot legislation has literally transposed, through Article 22 par. 3 of Law 13(I)/2004, the relevant provisions of Article 14 of Directive 2000/60/EC regarding public information and consultation.

It should be mentioned here, that the bodies directly or indirectly involved with the water resources management of Cyprus are many. They consist of State Agencies and Departments, semi-governmental organisations, environmental organisations, agricultural organisations, scientific associations, local government, private sector organisations, and many others. During the process of preparing the RBMP, the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment has called all these stakeholders to get involved in the process of the preparation and adoption/review as well as the implementation of the RBMP.

Until June 2011 when the RBMP was adopted by the Ministerial Council of Cyprus, a broad, extensive and complete public consultation was conducted, in three distinct stages.

The first stage of the consultation started in April 2007 and completed within six months. During this period, the following actions were implemented:

- mapping of interested agencies
- design of consultation actions
- selection of tools and methods
- implementation of timetable

The second stage of consultation started in December 2007 and was completed over a period of six months. During this period the following actions took place:

- debate on the important issues of water management. The Competent Authority provided wide publicity to the relevant draft and organised systematic information activities (for the public and agencies) and collected relevant views through a specially designed questionnaire.
- configuration of a stable framework of information, communication and exchanging of opinions.
organisation of a Training Workshop for Public Officers on technical consultation issues.

The third stage of consultation began in May 2010 and was completed within six months. Thus, based on the above important water issues, the Preliminary Management Plan was developed, which was subject to widespread public consultation.

During the consultation a series of public actions and presentations were made, as well as a total of thirteen open public meetings (4 district meetings, 4 Agencies meetings, 4 Community Council meetings, and 1 Pancyprian Meeting).

The results of the consultation were announced at a wide open Pancyprian meeting, which was held on December 1, 2010.

In order to support the preparation and the review of the RBMP, groups of stakeholders have been established (central group and district groups) during public consultation. These groups are composed of the main and most important bodies at district level and national level, with the aim to achieve the widest possible participation of the stakeholders involved.

The central group of bodies consists of representatives of relevant authorities, nationwide stakeholders and organisations working at a strategic level.

The role of central group of bodies is to:

- Monitor, supervise and contribute to the process of implementation of RBMP
- Coordinates the operation of district groups of bodies
- Advice, support:
  - The final preparation of the RBMP
  - The implementation of the RBMP
  - The identification of other priorities / issues for further improvement and environmental protection
  - The need to implement measures to achieve the objectives of the RBMP
  - The coordination and integration of the RBMP with other national strategic plans and policies for better water protection and promotion of sustainable use

The district groups of bodies consist of bodies which represent the major consumers / users / administrators of water of each District. The district groups:

- Provide advice and contribution to the process of elaboration / implementation of the RBMP issues in their District.
- Participate through their representatives in the central group of bodies, which oversees the implementation of the RBMP
- Cooperate and communicate with each other to the process of drafting the final RBMP
- Provide the required information on local issues to the central group of bodies to ensure the proper and effective implementation of RBMP
- Identify priorities regarding environmental protection and improvement of their area and the needs for more detailed plans and programmes and facilitate their implementation
- Recommend measures necessary to achieve the environmental objectives of the RBMP
- Support and monitor the implementation of the RBMP and the compliance of other plans with the RBMP in their area
- Ensure the participation, cooperation and agreement of important local bodies in the RBMP

Encourage the participation of the public in preparing the RBMP

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
Full responsibility for the implementation of the Laws lies with the MANRE and no other authorities were created.

5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the RBMP is regulated in relation to a range of Laws, Decisions and Planning documents (see below).

Transposition of Directive 2000/60/EC in the Cyprus national legal context took place through the adoption of Law 13(I)/2004 “Water Protection and Management”. This law defines the procedures that should be followed for water protection and management in Cyprus according to Directive 2000/60/EC.

For the implementation of the provisions of the Water Framework Directive 2000/60/EC and Law 13(I)/2004, the Minister of Agriculture, Natural Resources and Environment has been defined as the Competent Authority (Article 2 of the Law). Moreover, this Law includes the procedure for approval of the River Basin Management Plan (RBMP) and the Programme of Measures (PoM).

In accordance with the "Water Protection and Management Law of 2004" (N.13(I)/2004) the competent authority (MANRE) is responsible for all the roles specific to the WFD in the River Basin District except for the establishment of the programme of measures and the production of the river basin management plans. According to articles 4(3), 19 and 22 of the Law the establishment of the programme of measures and the production of the river basin management plans are coordinated by the competent authority and approved by the Council of Ministers of the Republic of Cyprus (CoM).

In addition, according to Article 5 of Law 13(I)/2004 Cyprus has been identified as a single River Basin District.

Hydrographically, the island of Cyprus is subdivided into 9 hydrological regions made up of 70 watersheds. According to the provisions of Article 1 of Protocol No 10 on Cyprus, the application of the Acquis is suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. The area under government control contains 47 watersheds.

Moreover, Law 79(I)/2010 “Integrated Water Management Law”, includes a more complete and detailed adjustment for water resources development and management. With this Law, the integrated water management is specifically assigned to the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment.

Finally, it should be mentioned that the Council of Ministers of Cyprus adopted and approved the Cypriot River Basin Management Plan on 9 June 2011, and the plan is uploaded on the Water Development Department website.

6.1.1 Legal effect

The RBMP of Cyprus constitutes a planning document, foreseen by Article 22 of Law 13(I)/2004 and adopted and approved by the Ministerial Council of Cyprus in June 2011.

Therefore, the RBMP constitutes in fact secondary legislation, falling under the laws, issued by the Parliament. Therefore, the RBMP is at the same level as any other
regulation approved by the Government and any administrative decision should be in conformity with its provisions.

According to article 15 of Law 79(I)/2010 “Integrated Water Management Law”, which was approved by the Parliament and entered into force on 15 November 2010, the Director of the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment may take any measures he considers to be necessary for the protection, conservation, restoration etc. of water resources in order to ensure their rational use. Such measures may aim and/or affect any sector or stakeholder directly or indirectly involved in water management.

Additionally, according to Article 14 of Law 79(I)/2010 “Integrated Water Management Law”, no one can abstract, use or exploit water, which is property of the Republic of Cyprus, or can take measures for the abstraction, the use or exploitation of water, unless he has previously obtained the relevant permissions from the Director of the Water Development Department. This Law actually implements the RBMP, since it provides for a strict and detailed licensing procedure for anyone who intends to use, abstract or exploit water.

Furthermore, according to Law 13(I)/2004, the Minister of Agriculture, Natural Resources and Environment determines the environmental objectives for each River Basin District (groundwater, surface waters and protected areas) in order to achieve “good condition” for all water resources. These environmental objectives are also included in the Cyprus RBMP.

According to article 32 of Law 13(I)/2004 the Council of Ministers may issue regulations for more efficient implementation of the provisions this Law. Based upon this legal authorisation, the Regulations on the Protection and Water Management of 2009 (Number 272) have been issued under Article 32 of Law 13(I)/2004. These Regulations set out criteria for the assessment of the chemical status of groundwater and also set out the limits for specific pollutants which may be discharged in groundwater. These limits have to be complied with, during the licensing procedure of facilities or installations, since, according to Article 8 of Law 106(I)/2002 “Water and Soil Pollution Control Law”, the discharge or disposal of any substances that could cause water and soil pollution is illegal, if done without the Waste Discharge Permit. For the authorisation of waste discharge in water (as also to soil or subsoil), a request is submitted to the Department of Environment of the Ministry of Agriculture, Natural Resources and Environment. In this case, the provisions of the Regulations adopted under the Framework Law are the ones which impose obligations in the permit procedure, rather the RBMP itself.

Therefore, the protection of waters (and soil) is assured, through the granting of the above Waste Discharge Authorisations to the various installations by the Department of Environment of the Ministry of Agriculture, Natural Resources and Environment. The Authorisations determine specific environmental terms, depending on the type of each facility, for the rational management of liquid and solid waste and their disposal in a controlled environment, taking into account the limits in force for the various types of pollutants.
6.1.2 Legal status in relation to individual decisions

According to Article 14 of Law 79(I)/2010 “Integrated Water Management Law”, which was passed and came into force on 15 November 2010, no one can abstract, use or exploit water, which is property of Cyprus Republic, or can take measures for the abstraction, the use or exploitation of water, unless he has previously obtained the relevant permissions from the Director of the Water Development Department. There is actually no provision in the legislation regulating the relationship between the RBMP and the permits. Nevertheless, the RBMP constitutes in fact the actual implementation of the legislation on water resources and therefore, any permit must comply with this legislation and with any other provision (for example limit values, prohibitions, etc.) directly or indirectly connected to water resources. Finally, the Director of the Water Development Department maintains the authority to revoke or change the terms and conditions of any permit, therefore providing the means for adapting the licenses with any potential review or revision either of the RBMP or with the PoM.

The relevant permissions referred to Law 79(I)/2010 are:

1. Permission for a water abstraction project

This permit is issued by the Director of the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment. Namely, according to article 80 of Law 79(I)/2010, no person or authority is allowed to:

a) drill or construct a well or other water abstraction project or to start such a drilling or construction

b) to widen, to dredge or to extend or modify any existing well or other water abstraction project or to start such a dredging, extension, or modifications

c) allow any person to proceed to any of the above actions listed in paragraphs a and b, unless he has previously obtained permission issued by the Director of the Water Development Department.

2. Permission for a water impoundment project

This permit is issued by the Director of the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment. Namely, according to article 81 of Law 79(I)/2010, no person or authority is allowed to:

a) construct or modify or start constructing or modifying any water impoundment project, on any point of flow of surface water

b) maintain, operate or abandon any such project

c) allow any person to proceed to any of the above actions listed in paragraphs a and b, unless he has obtained permission issued by the Director of the Water Development Department, according to which the diversion, obstruction or blocking of the flow of surface waters is allowed at a specific point, with the use of water impoundment projects. The permission determines the terms and conditions, under which any water impoundment project shall divert, obstruct or block the flow of surface waters.
3. Permission for water abstraction

This permit is issued by the Director of the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment. Namely, according to article 82 of Law 79(I)/2010, no person or authority is allowed to abstract water from any water source, unless the Director of the Water Development Department has issued permission. According to Article 82(2) there are some cases such as water abstraction for fire fighting or for purposes of investigations by the Geological Survey etc., where Permission for water abstraction is not required.

4. Permission for drilling rig operator

This permit is issued by the Director of the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment. Namely, according to Article 106 of Law 79(I)/2010, no person is allowed to open or manufacture a well or expand or repair or clean an existing well, with the use of a drilling ring, unless he has obtained permission issued by the Director of the Water Development Department.

The Water Development Department has the authority to review or revise any permission or authorisations which has been granted to beneficiaries in cases when during water monitoring it is found that the objectives set out in Law 13(I)/2004 regarding water the quality may not be achieved.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations

Renewable Energy Projects

The energy policy of Cyprus is formulated and implemented by the Ministry of Commerce, Industry and Tourism in collaboration with all stakeholders and approved by the Ministerial Council.

The Environmental Impact Assessment for Renewable Energy Projects is governed by Law 140(I)/2005. Annex I of this Law refers, among other, to renewable energy projects that may have significant effects on the environment and therefore, the preparation and submission of an Environmental Impact Assessment Study is required. In addition, Annex II of the Law includes a list of Renewable Energy Projects, for which the preparation of an additional Report of Preliminary Environmental Impact Assessment is initially required.

Where appropriate, the Study or Report is submitted to the Department of Environment of the Ministry of Agriculture, Natural Resources and Environment, and the study is discussed at the meeting of the Environmental Impact Assessment Board, which has been established pursuant to the provisions of the above Law.

> Technologies generating electricity using renewable energy with a total installed capacity of up to 5MW:
For facilities that fall into this category, applicants must submit an application to Cyprus Energy Regulatory Authority (CERA) to grant a license exception. The application must be accompanied with:

1. the application fee, which amounts for each application to 170.86 €
2. details of the applicant
3. technical and economic Study and Feasibility Study
4. information on the availability of the required primary energy
5. planning of the project and availability of land for the installation
6. working programme
7. possible sources of funding
8. Environmental Study, where applicable

- Technologies generating electricity using renewable energy with a total installed capacity above 5MW

For facilities that fall into this category, applicants must submit an application to Cyprus Energy Regulatory Authority (CERA) to grant a license. The application must be accompanied with:

1. the application fee, which is calculated according to applied capacity. The application fee is 0.08543 € per installed KW, with a minimum amount per application 170.86 €
2. details of the applicant
3. technical and economic Study and Feasibility Study
4. information on the availability of the required primary energy
5. planning of the project and availability of land for the installation
6. working programme
7. possible sources of funding
8. Environmental Study, where applicable

- Obligation for submission of Environmental Study in CERA:

Applications submitted to CERA for licensing or license exemption from Construction and Operation of a Power Station from Renewable Energy Sources (RES) or Facilities Combined Heat and Power, must be accompanied with the following types of Environmental Studies:

A. A Study of Environmental Impact Assessment to:
   - Wind turbines with a capacity over1MW (1000KW),
- Solar systems with capacity over 100KW
- Hydropower installations
- Installations Combined Heat and Power

B. Preliminary Study of Environmental Impact Assessment to:

- Wind turbines with capacity over 30KW and up to 100KW

Specifically, for **Hydropower installations**, until recently, no relevant application has been submitted to the Cyprus Energy Regulatory Authority (CERA), in order to produce electricity from Hydropower installations. In addition, no specific terms and conditions have been determined by the Cypriot legislation, regarding the use of water from Hydropower installations.

**Abstraction for agriculture**

According to Article 14 of Law 79(I)/2010 "Integrated Water Management Law", which was passed and came into force on 15 November 2010, no one can abstract, use or exploit water, which is property of Cyprus Republic, unless he has previously obtained the relevant permissions from the Director of the Water Development Department.

The relevant permissions referred to Law 79(I)/2010 for abstraction for agriculture is the **Permission for water abstraction**. This permit is issued by the Director of the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment. Namely, according to article 82 of Law 79(I)/2010, no person or authority is allowed to abstract water from any water source, unless the Director of the Water Development Department has issued permission. In addition, According to the Integrated Water Management Plan Regulation of 2011, enacted by the Ministry Council under Article 132 of Law 79(I)/2010, after the implementation of the water abstraction project, if the Director of the Water Development Department ensures that the project was constructed under the terms of the permission, he issues a certificate of approval. Permission for a water abstraction project is valid for 12 months from the date of issue.

**IPPC and other industrial installations**

According to article 8 of Law 106(I)/2002 "Water and Soil Pollution Control Law of 2002" the discharge or disposal of any substances that could cause water and soil pollution is illegal, if done without the Waste Discharge Authorisation. For the authorisation of waste discharge in water surface (as also to soil or subsoil), a request is submitted to the Department of Environment of the Ministry of Agriculture, Natural Resources and Environment. Therefore, the protection of waters (and soil) is assured, through the granting of the above Waste Discharge Authorisations to the various installations by the Department of Environment of the Ministry of Agriculture, Natural Resources and Environment. The Authorisations determine specific environmental terms, depending on the type of each facility, for the rational management of liquid and solid waste and their disposal in a controlled environment.

Additionally, for certain types of facilities with significant polluting potential (mainly the IPPC facilities), the Integrated Prevention and Pollution Control Laws of 2003 - 2008 (Law 56(I)/2003, Law 15(I)/2006 and Law 12(I)/2008) are implemented. These laws aim to prevent emissions to air and discharges to water, in particular with the application...
of Best Available Techniques (BAT) in order to achieve a high level of environmental protection as a whole. The authorisation system in Cyprus regarding these IPPC facilities is governed by two Permits. One is provided from the Ministry of Agriculture, Natural Resources and Environment and the other from the Ministry of Labour and Social Insurance. The Environmental Department of the Ministry of Agriculture, Natural Resources and Environment regulates issues related to the Management of Solid and Hazardous Waste and the Control of Water and Soil from waste. This Department is also competent for issuing the relevant Waste Discharge Authorisation. Compliance with the relevant limits and environmental objectives regarding water resources constitutes a precondition for the granting of the relevant permit.

The Water Development Department has the authority to review or revise any permission or authorisations which has been granted to beneficiaries in cases when during water monitoring it is found that the objectives set out in Law 13(I)/2004 regarding water the quality may not be achieved.

**6.2 Relationship with other sectoral policy plans**

There is a direct relationship between the RBMP and the relevant plans for the management of flood risks. In particular, Law 70 (I)/2010 transposes all provisions of Directive 2007/60/EC “On the assessment and management of flood risks” in the Cypriot legal order. First of all, the competent authority for the management of flood risks is again the Water Development Department of the Ministry of Agriculture, Natural Resources and Environment. The competent authority conducts the preliminary flood risk assessment, at a river basin level and develops flood hazard and flood risk maps. Finally, the Water Development Department is also competent to develop the flood risk management plans, which have to take into account, inter alia, the environmental objectives provided for by the relevant legislation and by the RBMP.

Furthermore, according to Article 23 par. 4 of Law 13(I)/2004, the competent authority may determine protection zones for the effective management and protection of specific water resources. Article 34 par. 1 of Law 79 (I)/2010 clearly states that:

“Without prejudice to the provisions of any other Law, all the requests for a construction license which refer to any kind of development within the special protection zones of Article 23 par. 4 of Law 13(I)/2004, or in any other area which does not have wastewater management system, shall be submitted by the Land Use Planning Authority to the Director of the Water Development Department, in order for him to approve the private system that shall be used for the disposal and management of wastewater.”

There is also a relationship between RBMP and other types of plans in Cyprus. Since the RBMP has been issued under legal authorisation by a Law and further adopted by the Ministerial Council, its provisions have to be respected when other plans are formulated, especially those that are linked or may affect water resources management. For example, the RBMP itself, includes measures that can affect other plans, as for example the obligation for registering all rivers in the relevant Land Use Development Plans. Also, according to the Law on Land Use Planning, the various Local and District Plans have to include measures for the protection of surface water and also take into account the existing water resources, which constitute a vital element for the development of the country. Through the use of this wording, although not explicitly stated, it becomes evident that any Land Use Plan adopted after the revision and review of the RBMP, has to be in compliance with this revised version of the RBMP.
7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

The development of the RBMP helped the adoption of the Law on Integrated Water Management (L 79/2010), which provided that all water permits are issued by one integrated authority, namely the Water Development Department, imposing also the obligation that any abstraction of water and any water resources project cannot be performed without a prior license.

The regulation and authorisation of surface and groundwater water activities is fully in the responsibility of the competent authority, MANRE. Also, discharge permits and permits for licensing impoundments/hydromorphological alterations lie with the MANRE and its Department of Environment and Water Development Department respectively.

Permits (licences) are coordinated by the main WFD competent authority.

There is currently no inventory of permits (licences). Department of Environment (DoE) has an inventory of all discharge permits on its database. An upgrade is ongoing at the moment to make it possible to upload it on the webpage of the DoE. Water Development Department (WDD) will prepare an inventory by the second implementation cycle.

The responsible authorities for different water users are indicated in the table below (Table 4).

Table 4: Permits and the Competent Authorities

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>MANRE/WDD.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>MANRE/WDD.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>MANRE/DoE.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>MANRE/DoE.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>MANRE/WDD.</td>
</tr>
</tbody>
</table>

7.2 Permit applications

The process for application for a permit is described below.
All activities that cause or can cause water (or soil) pollution have to operate with a (in this case: waste discharge) permit issued by the Minister (MANRE) to the owner or beneficiary. The Department of Environment (DoE) of MANRE is the department for managing the permitting process (applications, environmental investigations, data keeping, preparing draft permits, coordinating with other departments, preparing final permit to be signed by the Minister), inspection (checking compliance), as well as enforcement (issuing fines and preparing cases for prosecution by the Attorney General). A "Technical Committee" (involving 6 Ministries, the Federation of Environmental Organisations of Cyprus, and the Scientific and Technical Chamber of Cyprus) evaluates the applications and advises the Minister on permitting issues.

Applications are filed using standardized application forms; the applications will then be published, and draft permits issued. The Technical Committee examines the relevant data, terms, set out in the document of the draft permit prepared by the DoE and advises the Minister to issue or to decline a permit.

Differences for different types of water or scale are detailed below (Table 5).

Table 5: Differences in the permit application process for different water uses

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>For abstractions from Surface water bodies go to (B)</td>
</tr>
<tr>
<td></td>
<td>For abstractions from ground water bodies go to (A) and then (B)</td>
</tr>
<tr>
<td>(A) Permit requesting person/organization (applicant) submits completed permit application form for drilling a borehole</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Regulatory Authority (RA), i.e. The Director of the Water Development Department, or person assigned of the Director as his representative, checks the application if it is “duly made”.</td>
</tr>
<tr>
<td></td>
<td>If any information is missing, RA requests this from applicant.</td>
</tr>
<tr>
<td></td>
<td>Representatives of RA carry out a field visit, and prepare a report on the situation.</td>
</tr>
<tr>
<td></td>
<td>Based on the report, RA assesses the application and decides whether to approve/decline the application.</td>
</tr>
<tr>
<td></td>
<td>If application is approved, conditions on the permit are set by RA.</td>
</tr>
<tr>
<td></td>
<td>If the application is refused, the RA provides a notice to explain the decision as well as explains the applicant’s rights of appeal against the decision.</td>
</tr>
<tr>
<td></td>
<td>In case of a logged appeal, the appeal is heard by:</td>
</tr>
<tr>
<td></td>
<td>(i) Appeals committee set by the Minister</td>
</tr>
<tr>
<td></td>
<td>(ii) Courts</td>
</tr>
<tr>
<td>(B) Permit requesting person/organization (applicant) submits completed permit application form for water abstraction from</td>
<td></td>
</tr>
<tr>
<td></td>
<td>surface water body or groundwater body.</td>
</tr>
<tr>
<td></td>
<td>Regulatory Authority (RA), i.e. The Director of the Water Development Department, or person assigned of the Director as his representative, checks the application if it is “duly made”.</td>
</tr>
<tr>
<td></td>
<td>If any information is missing, RA requests this from applicant.</td>
</tr>
<tr>
<td></td>
<td>Representatives of RA carry out a field visit, and prepare a report on the situation.</td>
</tr>
<tr>
<td>Water Use</td>
<td>Permit Application Process</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Water Use</strong></td>
<td><strong>Permit Application Process</strong></td>
</tr>
<tr>
<td></td>
<td>Based on the report, RA assesses the application and decides whether to approve/ decline the application. If application is approved, conditions on the permit are set by RA. If the application is refused, the RA provides a notice to explain the decision as well as explains the applicant’s rights of appeal against the decision. In case of a logged appeal, the appeal is heard by: (iii) Appeals committee set by the Minister (iv) Courts</td>
</tr>
<tr>
<td>Impoundments</td>
<td>Permit requesting person/ organization (applicant) submits completed permit application form for water impoundment work. Regulatory Authority (RA), i.e. The Director of the Water Development Department, or person assigned of the Director as his representative, checks the application if it is &quot;duly made&quot;. If any information is missing, RA requests this from applicant. Representatives of RA carry out a field visit, and prepare a report on the situation. Based on the report, RA informs the applicant to prepare a hydrological study as well as an Environmental impact assessment. RA may require the position of other relevant government Departments (e.g. Department of Town Planning). Depending on the size of the project, RA may publicize (website, newspapers etc) details of the application and invite for comments from interested community groups. Based on the hydrological study, the Environmental impact assessment report, comments from other Government Departments, comments from the community, RA assesses the application and decides whether to approve/ decline the application. If application is approved, conditions on the permit are set by RA. If the application is refused, the RA provides a notice to explain the decision as well as explains the applicant’s rights of appeal against the decision.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>As above as far as water is concerned.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>As above as far as water is concerned.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>Permit requesting person/ organization (applicant) submits completed permit application form for Hydromorphological Alterations. Regulatory Authority (RA), i.e. The Director of the Water Development Department, or person assigned of the Director as his representative, checks the application if it is &quot;duly made&quot;. If</td>
</tr>
<tr>
<td>Water Use</td>
<td>Permit Application Process</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>any information is missing, RA requests this from applicant. Representatives of RA carry out a field visit, and prepare a report on the situation.</td>
</tr>
<tr>
<td></td>
<td>Based on the report, RA informs the applicant to prepare a hydrological study as well as an Environmental impact assessment.</td>
</tr>
<tr>
<td></td>
<td>RA may require the position of other relevant government Departments (e.g. Department of Town Planning).</td>
</tr>
<tr>
<td></td>
<td>Depending on the size of the project, RA may publicize (website, newspapers etc) details of the application and invite for comments from interested community groups.</td>
</tr>
<tr>
<td></td>
<td>Based on the hydrological study, the Environmental impact assessment report, comments from other Government Departments, comments from the community, RA assesses the application and decides whether to approve/decline the application.</td>
</tr>
<tr>
<td></td>
<td>If application is approved, conditions on the permit are set by RA. If the application is refused, the RA provides a notice to explain the decision as well as explains the applicant’s rights of appeal against the decision.</td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

Regarding permits for impoundments and hydromorphological alterations, there is a possibility for situations in which the applicant for the permit is also involved in water resource management.

The MANRE/WDD is both responsible for planning water infrastructure (dams etc.) and preparing/developing the RBMP. No information found on mechanisms to minimise potential conflicts of interest, although the final approving of the RBMP and the PoM through the Council of Ministers assures that the highest national priorities will prevail.

### 7.3 Enforcement of permits: authorities

Inspectors of the Department of Environment of the Ministry of Agriculture, Natural Resources and Environment carry out all inspections to control the degree of compliance with the environmental permit conditions. Water abstraction permits are inspected by Water Development Department.

The inspectors may ask for the cooperation and support of the police authorities, especially in cases when they anticipate problems or resistance in performing their inspections.
In cases where violations are found, appropriate actions are taken, including the issuance of compliance letters or administrative fines, or the preparation of reports to the Attorney General, in order for that office to initiate criminal proceedings.

There are separate authorities responsible for enforcement of different economic sectors.

IPPC: The authorisation system in Cyprus regarding IPPC facilities is governed by two permits: one is provided by the Ministry of Agriculture, Natural Resources and Environment and the other by the Ministry of Labour and Social Insurance. The Ministry of Labour and Social Insurance is also involved in enforcement for IPPC facilities.

For water pollution control, a Waste Discharge Permit is issued by the Minister of Agriculture, Natural Resources and Environment for all economic sectors (Resp. Department of Environment).

For air pollution control a permit on air emissions is issued by the Minister of Labour and Social Insurance for all economic sectors (Department of Labour Inspection).

The GAEC and cross compliance requirements, which are tailor made to each measure/scheme that is financed through the CAP, are defined by the Department of Agriculture and/or other governmental departments, mainly of the Ministry of Agriculture, Natural Resources and Environment, according to the needs of each measure/scheme. The implementation of the GAEC and cross compliance requirements of all measures/schemes financed by the CAP is the responsibility of the Cyprus Agricultural Payments Organisation (CAPO), an independent entity. CAPO is responsible for all payments and subsidies related to agriculture and therefore exercises control over the relevant agricultural activities. In exercising this control, CAPO uses satellite photos of the relevant agricultural areas, in cooperation with the Cypriot Cadastre. The satellite photos provided currently by the Cadastre are of a 5 year period convergence, so it is possible that there might be changes and discrepancies during this period and on site audits are made to verify data. Nevertheless, CAPO in cooperation with the Cadastre is currently trying to obtain satellite photos of one year convergence.

There are not separate authorities responsible for the enforcement of different types of water-related permits.

All permits and enforcement are carried out by MANRE, though by different departments.

As noted above, the main enforcement authority for waste discharge permits, pollution permits and water reuse permits is the Department of Environment; for abstractions, the authority is the Water Development Department (WDD) of the Ministry of Agriculture.

**7.4 Coordination on enforcement**

**7.4.1 Among enforcement authorities**

When the Department of Environment prepares draft permits, e.g. for water discharges, the WDD is consulted.

Moreover, the permanent secretary of MANRE coordinates the departments involved in the implementation of the various laws.
7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are not separate entities. The Minister of Agriculture, Natural Resources and Environment is both the main enforcement authority and also the main water authority. As noted above, the permanent secretary of MANRE coordinates the various departments within MANRE.

7.5 Enforcement actions

7.5.1 Number of inspectors
As noted above, inspections are carried out by two departments in MANRE, the Department of Environment and the Water Development Department. In both, these officials are not full-time committed to inspections but the same time they are dealing with permitting, reporting and other issues related to water protection.

There are three (3) FTE DoE inspectors during the year 2010, working on waste discharge permits.

In 2010, the number of the WDD FTE was 20.

(It can be noted that until 15.11.2010 when the new Law 79/2010 regarding Integrated Water Management entered into force, the responsible authority for issuing and controlling all water abstraction permits was the District Officers. WDD was consulted before the issuing of each individual license, thus under the old regime, WDD’s inspectors made on site audits before giving comments and recommendations on each individual case to the District Officer. During 2011, under the new regime which gave WDD full power and authority over water abstraction and use, the number of WDD’s inspectors working on water permits remained the same.)

Number of FTE inspectors working on water-related permits for industrial facilities: 1.

Number of FTE inspectors working on water-related permits for agriculture: 1.6. The vast majority of WDD inspectors during 2010 and 2011 working on water permits, were dedicated to agricultural activities and water abstraction for domestic use.

Number of FTE inspectors working on water-related permits for other sectors: 0.4.

7.5.2 Number of inspections
During 2010, DoE carried out approx. 100 inspections; WDD carried out 1860 inspections.

In 2011, WDD carried out 2315 WDD inspections.

Number of water-related inspections for industry: 34. The vast majority of the inspections performed in 2010 were un-planned and took place after a complaint filed to the Department.

Number of water-related inspections for agriculture: 55. The vast majority of the inspections performed in 2010 were un-planned and took place after a complaint filed to the Department.

The reason why the majority of inspections took place regarding agricultural activities is the following: Cyprus has a rather small number of industrial installations. These installations are mostly located within industrial zones, they are closely monitored and
most of them are industries of a low or medium environmental impact (for example food industries). At the same time, Cyprus has a vast number -for its size- of livestock installations: of a total of 85 IPPC facilities operating currently in Cyprus, approximately 2/3 are livestock installations. Furthermore, a large number of smaller livestock activities and installations are scattered throughout the Cypriot countryside.

Number of water-related inspections for other sectors: 11 (DOE). This included: landfills, sewage treatment plants and hospitals.

**7.5.3 Number of infringement actions**
Under the Water Pollution Control Law (106(I)/2002), 75 infringement actions were taken following inspections by DoE.

In 2011, following inspections by the WDD, 174 warnings were issued and 5 violation cases were brought before Court regarding illegal boreholes and illegal operators.

Number of water-related infringement actions for industry: 18.

Number of water-related infringement actions for agriculture: 54 proceeded after DoE inspections.

In 2011, the majority of the infringement actions proceeded by the WDD related to agricultural activities.

Number of water-related infringement actions for other sectors: 3.

**7.5.4 Other mechanisms (in addition to inspections)**
Annual reports by the operating facilities, and self monitoring.

The Department of Environment data base.

In 2010, a pilot project started by the Water Development Department, in cooperation with an external consultant, focused on the 313 square km West Mesooria Aquifer, in the area between Nicosia and Morfou. The specific area was selected due to its flat geomorphology, the large number of agricultural activities and the poor quantitative status of the groundwater body, which however is possible to be recovered in the next two RBMP cycles provided that the abstraction limits set by WDD are monitored effectively. Using data from CAPO, satellite photos, in combination with on-site audits, the project detected in the area 4120 licensed and 2657 illegal water abstraction facilities. The project, further to its actual outcome, provided very important and interesting results, regarding for example the number of water abstraction facilities per square kilometre, the ratio between licensed/illegal water abstraction facilities, etc.

**7.6 Types of administrative and criminal sanctions**

**7.6.1 Sanctions established in national legislation**
A range of administrative sanctions are available to inspectors, such as issuing letters of compliance.

Criminal sanctions under water legislation:

According to Article 29 of Law 106(I)/2002 “Water and Soil Pollution Control Law ff 2002”, any person violating the provisions of Article 8 of Law 68(I)/2009 on waste
discharge authorizations, is guilty of an offense and is liable to imprisonment not exceeding three years or a fine not exceeding twenty thousand Cypriot pounds (approx. 34,500 €) or both penalties. The violation of any term of the Authorization is considered as a criminal offense and the offender is liable to imprisonment not exceeding three years or a fine not exceeding twenty thousand pounds or both penalties. Any person violating the provisions of Article 6 of Law 106(I)/2002, is guilty of an offense and is liable to imprisonment not exceeding three years or a fine not exceeding fifty thousand Cypriot pounds (approx. 85,000 €) or both penalties.

According to Article 14 of Law 79(I)/2010 “Integrated Water Management Law”, a person who violates or fails to comply with any of the provisions regarding permissions for water abstraction projects, permissions for water impoundment projects and/or permissions for drilling rig operator, is guilty of an offense and in case of conviction is liable to imprisonment not exceeding twelve months or a fine not exceeding 12,000 Euros or both of these.

In addition, sanctions are also set for IPPC installations:

Administrative sanctions for breach of IPPC legislation can include: failure to operate with a permit or comply with its conditions could result in: recall of the licence; cancel or amendment of any of its terms; addition of a new term in the licence, shortening of the term of validity of the licence or a notice of prohibition instructing the operator to cease operating the installation.

Criminal sanctions for IPPC-related offences can include: a fine, imprisonment or, an interim order prohibiting the continuation or repetition of a criminal action (failure with which to comply will result in a fine or imprisonment). (Milieu IPPC study, based on Law No.187 (I)/2002) (Administrative) and Law No. 187(I)/2002; Reg. No. 170/2004; Reg. No. 195/2004 (criminal)).

**7.6.2 Sanctions normally brought for water violations**

The most common sanction imposed in case of violation is a fine. Prison sentences are imposed in only very few cases. This is due to the fact that the level of compliance is in general satisfactory and at the same time, very few high environmental impact facilities currently operate in Cyprus, likely to cause a severe environmental problem.

The Water Development Department also issues warning letters, imposes fines and brings cases before the Court regarding violation of water permits, or illegal abstractions. Imprisonment sentences have not as yet imposed by the court.

**7.7 Strengths, weaknesses and changes to the enforcement system**

**7.7.1 Strengths of the system of inspections and enforcement**

Cyprus is a small country and it is easy to inspect (no great distances to travel).

Inspectors have a good knowledge of the facilities to be inspected.

The Law 79(I)/2010 “Integrated Water Management Law” gives the right to the Water Development Department (WDD) director to set and change groundwater extraction limits. This applies to all existing and new permits. Targets on annual abstraction volumes per groundwater body have been set and these are to be taken into account as
the borehole extraction limit is reviewed on a yearly basis and installation of water meters measure is implemented.

The aforementioned pilot project (for the West Mesaoria Aquifer) provided very interesting data, both on the number and locations of water abstractions, but also on other issues, like for example the density of abstractions. The project gave useful insights regarding the re-design of the monitoring and control system. For example, all high volume users (e.g. extraction over 5000m³/year) could be obliged to install water meters which send the reading telemetrically, so that on-line control of the extracted volumes can be available to the competent authority. Medium sized abstractions (e.g. extraction between 500 to 5000m³/year) could be inspected on a regular basis, 3-4 times per year by WDD, while for small scale abstractions (e.g. extraction between 100 to 500m³/year) random checking will be carried out by WDD. Furthermore, there are ideas of performing similar pilot projects for all the large aquifers of the island. All the data from these projects, together with a full record of all water abstraction facilities in operation, would then be inserted in a GIS data base, which would be continuously update, with all new data and all the outcomes of the inspections. Of course, it remains for the Department to find the financial resources in order to implement this large scale project.

7.7.2 Weaknesses of the system of inspections and enforcement
More personnel is needed. Personnel should be dedicated 100% on inspections.

Separating inspecting and permitting procedures

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is thought that the RBMPs have strengthened enforcement.

The WFD changed enforcement. The new legislation is a legal tool in the hands of MANRE and all illegal cases are brought before court and dealt more easily.

The development of the River Basin Management Plan and all the procedures, interactions and consultations that took place, facilitated the work of enforcement in the following ways:

- It provided an opportunity for the Ministry to get in touch and interact with other authorities, the public and the stakeholders involved, thus providing for a better understanding of the problems and the ways to handle them.
- The development of the RBMP helped the adoption of the Law on Integrated Water Management (L 79/2010), which provided that all water permits are issued by one integrated authority, namely the Water Development Department, imposing also the obligation that any abstraction of water and any water resources project cannot be performed without a prior license. Under the previous regime, the competency for water abstraction permits was allocated to the District Administrations. The absence of adequate and specialized administrative infrastructure at the District level, in combination with the division of competencies between the Districts and WDD, led to a situation where there was a significant number of unauthorized water abstractions, with a relevantly poor record-keeping regarding the number of locations, thus making the control and enforcement more difficult. Under the new regime, all licenses are issued by the Water Development Department, on site audits are performed by WDD inspectors
and a full record of the location and specification of all abstractions in Cyprus is kept at a central level.

- Annex VII of the RBMP "Report on Water Policy" provides for the revision of the Cypriot Water Policy. This policy prescribes specific and comprehensive quantitative abstraction rules from each surface source and groundwater body. It also defines specific minimum flow requirements and dam releases for each. This facilitated the adoption of Law 79/2010, which imposes the obligation to everyone who wants to abstract or use water, to hold a relevant license, issued by the Water Development Department. These requirements have led to better monitoring and control of the national water resources of the country.

- In addition, Law 79/2010 established an Advisory Committee for Water Management. This Committee consists of 16 members, representing Ministries, state institutions, local authorities and NGOs. The Committee thus incorporates all the stakeholders involved directly or indirectly in water management chain and constitutes a forum where all the proposals on water policy made by the WDD are discussed, with the objective to advise the Minister of Agriculture Natural Resources and the Environment, on the general water policy, including water resources allocation according to use and regional demands. The ultimate body that approves the proposals is the Council of Ministers.
8 References

The main source of information on the legal nature of RBMP is the Law 13(I)/2004 “Water Protection and Management” available together with other legislation at:


The Cyprus’ Governments WebPortal

Cyprus RBMP

Cyprus WFD Article 5 Report
(http://www.moa.gov.cy/moa/wdd/wdd.nsf/All/B8D7262CBFCC9AF8C225711E00303F5A/$file/Page1-20.pdf)

Cyprus WFD Article 8 Report

Department of Environment of the Ministry of Agriculture and Natural Resources:

Department of Environment data base.

DoE, WDD (Division of Hydrometry)

District administration offices:

Eionet Reporting
(http://cdr.eionet.europa.eu/cy/eu/msfd_ca/envta1iuq/CYP_MSCA_20110419.xml)

Essential information on the Cypriot River Basin Management Plan is available at:

Georghiades 2011
(http://www.mlsi.gov.cy/mlsi/dli/dli.nsf/All/49BD4138B2554D63C2257853003CE312/$file/SG%20Presentation%20IPPC%20India.pdf)

Hadjidemetriou 2011: Environmental Policy and its enforcement
(http://www.iclg.co.uk/khadmin/Publications/pdf/4406.pdf)

Homepage of the Ministry of Commerce, Industry and Tourism

Homepage of the Ministry of Communications and Works

Homepage of WDD (http://www.moa.gov.cy/moa/wdd)
Integrated Water Management Law (79(I)/2010)

IPPC enforcement study (Milieu Ltd, Provisions on penalties related to legislation on industrial installations, 2011, for DG Environment)

Interviews with national officials

Kotsila 2011

Law 106(I)/2002 “Water and Soil Pollution Control Law of 2002”

Law 56(I)/2003 “Integrated Pollution Prevention and Control”

Law 79(I)/2010 “Integrated Water Management Law”

MANRE/WDD 2009: Dams of Cyprus

Water Development Department the Ministry of Agriculture and Natural Resources:

Water Development Department Legislation:

Water Protection and Management Law of 2004” (N.13(I)/2004)

Website of the Pollutant Release and Transfer Register
(http://www.prtr.dll.mlsi.gov.cy/prtr/iweb.nsf/WebContentDocsByID/ID-9F985CD1348847F1C22577570032BC0B)

WISE Summary Report

Member State officials

<table>
<thead>
<tr>
<th>Names of interviewees:</th>
</tr>
</thead>
</table>
| **Dr. Chrystalla Stylianou**  
Senior Environment Officer  
Department of Environment  
Ministry of Agriculture, Natural Resources and Environment, Cyprus  
Tel.: +357-22408941  
Fax: +357-22774945  
E-mail: cstylianou@environment.moa.gov.cy | **Mr. Neoklis Antoniou**  
Environment Officer  
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Ministry of Agriculture, Natural Resources and Environment  
Tel. (+357) 22 408 936  
Fax. (+357) 22 774 945  
E-mail: nantoniou@environment.moa.gov.cy |
| **Mrs. Panagiota Hadjigeorgiou**  
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Water Development Department  
Kennedy Avenue 100-110  
1047, Nicosia  
Cyprus |
<table>
<thead>
<tr>
<th>Tel: (+357) 22609132</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fax: (+357) 22609133</td>
</tr>
<tr>
<td>E-mail: <a href="mailto:phadjigeorgiou@wdd.moa.gov.cy">phadjigeorgiou@wdd.moa.gov.cy</a></td>
</tr>
<tr>
<td>Website: <a href="http://www.moa.gov.cy/wdd">www.moa.gov.cy/wdd</a></td>
</tr>
</tbody>
</table>
1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of the Environment (CZME), Ministry of Agriculture</td>
<td>Ministry of Environment, Regional Authorities, River Basin Authorities.</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Agriculture</td>
<td>River Basin Authorities, Czech Hydrometeorological Institute</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Ministry of the Environment, Ministry of Agriculture</td>
<td>Municipal Water Authorities, Regional Water Authorities, Central Water Authorities</td>
</tr>
<tr>
<td>Permitting</td>
<td>Ministry of the Environment, Ministry of Agriculture</td>
<td>Regional and Local Authorities</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Czech Environmental Inspectorate (reports to Ministry of Environment), Ministry of Agriculture</td>
<td></td>
</tr>
</tbody>
</table>

The main competent authorities are the Ministry of the Environment (CZME) and the Ministry of Agriculture.

1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)
Competencies are divided by sectors/activities among several ministries and their institutions, but most of the competencies have two ministries: Ministry of Environment (reporting, nature conservation, water and ecosystems protection incl. wastewater treatment, international co-operation) and Ministry of Agriculture (sub-basin plans - RBMPs C, water management, water management infrastructure, water supply and sewage systems (incl. waste water treatment plants), agriculture, fisheries).

The Ministry of the Environment is responsible for coordinating bodies’ takeover and implementation of European Union legislation in the field of water, together with the MA (Ministry for Agriculture). (WISE)

1.2 Authorities involved in preparing and approving the RBMPs

The Ministry of Agriculture prepares the RBMPs in co-operation with Ministry of the Environment (CZME) and with regional authorities and also with river basin administrators/authorities (Water Act 2001).

Coordination mechanisms to deal with multiple authorities:

The Committee for water management planning has been established and all the authorities participate in it.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

The authorities that request monitoring are the Ministry of Environment and Ministry of Agriculture (§108-3b).

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

River basin authorities and the Czech Hydrometeorological Institute are responsible for all three types of monitoring (surveillance, operational and investigative).

River basin authorities are the state enterprises controlled by the MoA. Czech Hydrometeorological institution is a national contributory organisation, founded by the MoE. Therefore, almost all monitoring programmes are provided through own state facilities and staff, although there are some exemptions where the monitoring is requested as a contracted service.

In general, monitoring of surface waters are provided by the River basin administrators and monitoring of groundwater by Czech Hydrometeorological Institute, however there are contracts between each other in specific areas and topics (e.g. sediments etc.)
3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 2).

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>The Ministry of Agriculture</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>The Ministry of Agriculture</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>The Ministry of Health</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>The Ministry of Health</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>The Ministry of Environment</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>The Ministry of Environment</td>
</tr>
<tr>
<td>Climate</td>
<td>The Ministry of Environment</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. This is achieved through a standard co-operation process at inter-government level.

3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 3).

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>The Ministry of Agriculture</td>
</tr>
</tbody>
</table>
### 4. Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

The Czech law has detailed requirements as to where and when the river basin management plans including their preparatory documents should be made available. Thus, they shall be published on the official notice boards and websites of the Ministry of Agriculture, the Ministry of Environment, the regional authorities concerned and the river basin management companies. The time span for making them available is 6 months which seems to provide all stakeholders with sufficient time for comments.

An evaluation of the public comments and the final versions of the river basin management plans as amended pursuant to the comments, shall be made available for 30 days.

It has to be pointed out that the draft national river basin management plans have to be accompanied by a summary and maps to facilitate the understanding of the technical contents and of the meaning of the proposed measures. This is a substantial contribution to better involve stakeholders, esp. those without expert knowledge of the subject matter. Unfortunately, this requirement does not apply to the draft sub-basin management plans.

The competent authorities are aware of the need to involve a broad range of stakeholders. Thus, a central committee for water management planning has been established in summer 2011. Its main task is to coordinate the planning procedures during the 2nd planning cycle until 2015. The statute of the committee shows that it shall
involve i.a. representatives of the central water authorities (Ministry of Agriculture, Ministry of Environment), regions, river basin management companies and water flow managers, important users of water and NGOs. However, the available minutes from the sessions of the committee prove that so far, only state authorities, regions and river basin management companies have been present in large numbers. Important users of water were represented only by the state-owned forest management company and the Water Supply and Sewerage Association of the Czech Republic. Other users of water and NGOs were absent. Being aware of the need for broader participation, the committee has undertaken in November 2011 to invite further associations of users of water (such as the Chamber of Commerce or the Czech Agrarian Chamber) and NGOs to participate.

There are no comprehensive mechanisms for consultation/involvement of stakeholders in the implementation of the plans. The only identified exception is the formal right of municipalities, water managers and NGOs to participate in permitting and other individual decision-making procedures under the Water Act. The water authorities have to take into account the river basin management plans in the course of these procedures. Thus, the involvement of the municipalities, water managers and NGOs in the decision-making procedures may be considered as their involvement in the implementations of the plans.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

New authorities have been created as a result of the WFD. Due to the WFD implementation, especially through the transposition into the Water Act, there is a possibility neither obligation for all authorities to take into account the environmental objectives and its achievement during whole the decision – making processes.
5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

**RBM Planning system – Czech republic**

<table>
<thead>
<tr>
<th>International RBMPs</th>
<th>National RBMPs</th>
<th>Regional RBMPs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Preparation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MoE + MoA</td>
<td>MoE + MoA</td>
<td>River Basin Authorities + Regional authorities</td>
</tr>
<tr>
<td>Int. River Basin commissions</td>
<td>Committee for water management planning at national level*</td>
<td>Committees for water management planning at river basin levels*</td>
</tr>
<tr>
<td>Oder, Danube, Elbe</td>
<td>Elbe, Oder, Danube</td>
<td>10 river basins</td>
</tr>
<tr>
<td><strong>Comment procedure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International SEA</td>
<td>SEA</td>
<td>SEA</td>
</tr>
<tr>
<td>International public consultation</td>
<td>Intergovernmental procedure**</td>
<td>Public consultation</td>
</tr>
<tr>
<td><strong>Approval</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International River Basin commissions</td>
<td>Czech government</td>
<td>Regions</td>
</tr>
<tr>
<td><strong>Announcement</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International River Basin commissions</td>
<td>MoE and MoA</td>
<td>Regional authorities</td>
</tr>
<tr>
<td></td>
<td>Measures of general nature***</td>
<td>Measures of general nature***</td>
</tr>
</tbody>
</table>

* Committees for water management planning – official steering group incl. MoE, MoA, River basin authorities and regions and stakeholders
** Intergovernmental procedure – involves all Czech ministries, state institutions and regional and local authorities
*** Measures of general nature – hybrid administrative act – binding measure of a general nature other than a piece of legislation or a decision
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the existing RBMPs from the first planning cycle was regulated. Both the existing national river basin management plans and the regional river basin management plans have been split into a binding part and a non-binding (recommending) part. The binding parts have been approved and published in the form of legislative acts. Concretely speaking, the binding part of the national river basin management plan has been approved and issued in the form of a Governmental Regulation; the binding parts of the regional river basin management plans have been approved and issued in the form of Regulations of the regions’ councils. The binding parts of the mentioned plans are binding on everybody.

The legal effect of the RBMPs which shall be adopted in the second planning cycle is regulated in a different manner. As was mentioned above, the current Water Act lays down that RBMPs shall have the legal status of background documents for the execution of the public administration, especially for land use planning and for water law procedures.

The Czech Republic adopted a complex amendment of its RBMP legislation in 2010. This happened in reaction to an infringement procedure conducted by the Commission. As a result, the current RBMPs which were adopted during the first planning cycle until 2009 no more correspond to the RBMP legislation in force. In the following text, the RBMP legislation in force will be analysed, including the amendment from 2010. The latter legislation is now being applied to the second planning cycle which will finish in 2015.

The current Czech law has a three-tier hierarchy of river basin management plans. On the top are the “international river basin management plans” covering international river basin districts. These are followed by “national river basin management plans” covering parts of international river basin districts within the Czech Republic. The third and the most inferior are the sub-basin management plans which cover the territory of the national sub-basins. The sub-basin management plans complement and develop the national river basin management plans. The sub-basin management plans include inter alia programmes of measures to achieve the objectives determined by the national river basin management plans.

All river basin management plans are prepared together with flood risk management plans.

The national river basin management plans shall be prepared by the Ministry of Agriculture and the Ministry of Environment in cooperation with the competent river basin management administrators and regional authorities. Please note that the river basin management companies are state-owned companies which are subordinated to the Ministry of Agriculture. As they are under full control of the state, they do not involve other subjects such as water users. Their main task is to manage the main water flows and to identify and assess the status of water. They also issue expert statements for the purposes of permitting in the area of water law.
The finalised national river basin management plans shall be approved by the Government and subsequently issued by the Ministry of Agriculture in the form of “measures of general nature”. This is a hybrid administrative act which combines elements of an individual administrative decision and of generally applicable legislation.

The sub-basin management plans shall be prepared by the river basin management administrators in cooperation with regional authorities and the Ministry of Agriculture and the Ministry of Environment. The sub-basin management plans shall be approved by regions. The form in which they should be approved is not laid down. Thus, it can be expected that the regions will approve them in the form of “measures of general nature”.

Please note that the regions are units of territorial self-government. There are 14 regions in the Czech Republic, one of them is the Capital City of Prague.

Please note that all river basin management plans should be submitted to SEA before final approval.

6.1.1 Legal effect
RBMPs are sectoral plans which have the same rank as plans and programmes in other sectors such as transport or trade. They do not have the form of legislation. Thus, they are subordinate to all types of applicable legislation, including directly applicable EU law, Constitutional Acts, general Acts and implementing Decrees and Regulations.

RBMPs themselves do not create rights and obligations for individuals, but are binding for water and town and country planning authorities. Rights and obligations for individuals are created by individual decisions issued, changed or cancelled on the basis of the RBMPs.

Article 23 (2) of Water Act lays down that RBMPs are background documents for the execution of the public administration, especially for land use planning and for water law procedures. Thus, the authorities involved in land use planning or in water law procedures have to take into account the existing RBMPs. The requirement “to take into account” means that the authorities do not have to comply with the RBMPs in case they provide a proper justification for doing so; on the other hand the requirements of RBMP’s are expressed in binding assessments of water authorities, that are necessary and binding for all affected procedures.

a. As for the existing RBMPs in the first planning cycle, the environmental objectives and programmes of measures are included in the binding parts of the RBMPs. Thus, the environmental objectives and programmes of measures are binding on everyone. The rest of the RBMPs are non-binding, which means they are only of informative or recommending nature.

b. As for the RBMPs which are being prepared for the second planning cycle, the situation is more complicated due to the mentioned amendment of the RBMP legislation.

The general environmental objectives are currently formulated as binding legal obligations in Article 23a of the Water Act. As the Water Act is a generally applicable Act of Parliament, the general environmental objectives are binding on everyone.
The general environmental objectives shall be further specified in the RBMPs pursuant to Decree 24/2011 Coll., Article 12 and Appendix 1 (5) and Appendix 3(5). Article 23a (4) of the Water Act further allows that RBMPs make exemptions from the general environmental objectives. The exemptions may consist in prolonging the deadlines for the achievement of the objectives or in setting milder objectives for water protection. Article 23a (5 – 9) of Water Act sets detailed criteria and limits for making the mentioned exemptions. The wording clearly shows that the general environmental objectives may be softened only by RBMPs, not by individual decisions (permits). In this sense, the environmental objectives in the future RBMPs will be binding as a minimum standard for the decision-making authorities. This is a paradox given the fact that the future RBMPs will not have the form of legally binding acts, but only of background documents (please see above). On the other hand, the non-binding form of the RBMPs will allow authorities to apply stricter environmental objectives to an individual decision compared to the objectives adopted by the RBMPs. The stricter objectives may be applied only with a proper justification.

There is another provision of the Water Act which will affect rights and obligations of persons and legal entities via the future RBMPs although RBMPs will not be formally binding. Namely, Article 12 (3) lays down that water management authorities changes or cancels existing permits for water use if this is necessary to achieve the environmental objectives adopted by RBMPs.

The above mentioned provisions allow for the conclusion that RBMPs are formally not binding. However, the environmental objectives adopted in them are materially binding on the authorities which have to apply the objectives as a minimum standard to new decisions. Besides that, they are obliged to change or cancel old decisions which are not in line with those objectives.

A similar legal construction is applied to programmes of measures. These are formulated in RBMPs and thus do not have a legally binding form. However, Article 26 (1) of the Water Act says that programmes of measures to achieve environmental standards adopted in RBMPs must be carried out within 3 years from the adoption of the RBMPs. This reference from the Water Act to RBMPs makes the programmes of measures binding on the institutions entrusted with the implementation of the programmes.

Please note that the remaining parts of RBMPs besides the environmental objectives and programmes of measures are of informative or recommending nature. However, these parts are implemented into water procedures through opinions of river basin administrators.

### 6.1.2 Legal status in relation to individual decisions

As was described above, the environmental objectives adopted in RBMPs are materially binding on the authorities which have to apply the objectives as a minimum standard to new decisions. Besides that, they have to change or cancel old decisions which are not in line with those objectives.

General rules for permitting of hydropower installations and abstraction for agriculture

All abstraction or other usage of water which involves using of a technical appliance or which is carried out for other persons or entities is subject to a permit. Permits are always issued for a limited period of time. The expiring permits may be prolonged or replaced by new permits only if compliance with the adopted environmental objectives is
ensured. Thus the expiration of permits opens an opportunity to review compliance of permits with the environmental objectives. This, however, does not apply to the prolongation of permits to use water for energy purposes (see below).

As a result, the Water Act does not have any explicit provision requiring to systematically review in certain periods whether all existing permits are in line with environmental objectives. However, as was mentioned above, Article 12 (3) (a) of Water Act requires the water management authorities to change or cancel on an ad-hoc basis an existing permit if this is necessary to achieve the environmental objectives set in the RBMPs. Thus, if a water management authority reviews an existing permit out of its own initiative or if it is notified by the permit holder or a third person of the discrepancy between the permit and the environmental objectives, it has a legal obligation to intervene.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Permits to use water for energy purposes must be issued for at least 30 years. The water management authority has to prolong such permits for the same period of duration as was set in the expiring permits, unless the permit holder has been penalised for repeated breaches of the Water Act. Thus, the prolongation procedure itself does not trigger a review of compliance of the expiring permits with environmental objectives adopted by the river basin management plans. Still, the water management authority has the right to carry out an ad hoc review and change or cancel an existing permit in order to ensure compliance with environmental objectives (see chapter “general rules”). The above mentioned rules do not apply to usage of groundwater for energy purposes which does neither involve their abstraction nor pumping. The latter usage of water is subject to a consent whose minimum nor maximum duration has not been set by law.

**Abstraction for agriculture**

Permits for the abstraction of water for agriculture are subject to the general rules as described above in the chapter “General rules for permitting of hydropower installations and abstraction for agriculture”. However, there is a special provision regarding the usage of water for breeding of fish and of water poultry, or of other water animals, for business purposes. In case the permits for the latter business activities allow using dangerous or very dangerous substances, they may be issued for the maximum of 4 years. Thus, they have to be relatively frequently prolonged. The prolongation procedure will include a review of their compliance with environmental objectives. However, there is no requirement to systematically review these permits when river basin management plans are reviewed.

**IPPC and other industrial installations**

Article 18 of Act No.76/2002 Coll., IPPC Act, requires the competent authority to review the existing IPPC permits at least every 8 years. Thus, the review period is not linked to the planning cycles of the river basin management plans. However, the competent authority must in certain cases review the existing permits earlier. These cases include the situation when any environmental quality standards based on sectoral legislation
have changed. The IPPC Act defines the environmental quality standards as all requirements laid down on the basis of special legislation which the environment must comply with at a certain time and place. This broad definition contains Footnote 5 which refers inter alia to the Water Act. Thus, there is no doubt that the environmental quality standards under the IPPC Act also include environmental objectives set on the basis of the Water Act in RBMPs. As a result, a change of the environmental objectives should be considered as a change of environmental quality standards which triggers a review of the existing IPPC permit.

6.2 Relationship with other sectoral policy plans

The Water Act requires that the preparation, review and updating of the RBMPs be coordinated with the preparation, review, and updating of the flood risk management plans. Both types of plans are prepared by the same group of competent authorities. Thus, coordination is secured both in the terms of the time schedule and content of the plans. From the legal point of view, there is an obligation of coordination between the RBMPs and the flood risk management plans. Thus, there is no hierarchy between the plans.

Besides that, the Water Act lays down that RBMPs are background documents for land use planning. Thus, the land use authorities (town and country planning authorities) have to automatically take them into account in the land use planning procedures. The requirement “to take into account” means that the RBMPs are not binding and the land use planning authorities do not have to stick to them if they properly justify why they are doing so. The land use planning authorities have to involve all natural and legal persons concerned as well as all authorities concerned into the land use planning procedures. Thus, basin authorities will also be involved into the procedures and will have several opportunities to comment on the draft land use plans at various stages of their preparation.

The legal relationship between the RBMP and other plans is not formally regulated. On the other hand, the SEA procedure which applies to the RBMPs may be considered as a tool for coordination with other sectoral plans. This is due to the fact that competent authorities from all sectors affected by RBMPs must obtain an opportunity to express comments on the draft RBMPs. They may thus influence the final shape of the RBMPs.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are Regional and local water authorities.

Permits (licences) are coordinated by the main WFD competent authority.
There is an inventory of permits (licences).

Water authorities at the municipal level (authorities of municipalities with extended jurisdiction) are mostly responsible for issuing water permits. More serious issues are dealt by regional water authorities (for instance, to permit discharge of waste water into surface water from sources of pollution with a size of 10 000 population equivalent or more) that are also appellate administrative bodies to municipal water authorities. Central water authorities are ministries that are also appellate administrative bodies to regional water authorities. Water authorities at all levels are supported by river basin administrators that provide technical, economic and other information available to them to the water authority, if requested, for their use.

Water authorities at municipal and regional levels are general, only competencies of central water authorities differ. The Ministry of Agriculture executes the powers of a central water authority for Abstractions and Impoundments; the Ministry for Environment executes the powers of a central water authority for Point source discharges, Diffuse pollution measures and Hydromorphological alterations.

There is no need to co-ordinate/communicate permit information, because basic decision making is issued by water authorities.

7.2 Permit applications
The process for application for a permit is described below.

The process is in a general way same like the example (see Figure 0.1). There are little differences, the terms for water authorities are 60 days for easier matters and 90 days for complex matters, and one of the essential documents contenting the application is the opinion of river basin administrator. There are also two particular processes, one is permitting a water management structure, one is permitting use of surface water or groundwater (if necessary – for example there is no need for water use permit flood control structures when it is not a water reservoir).
Figure 1 An example of a process for application for an environmental permit

1.) Permit requesting organisation (‘applicant’) submits completed permit application form.

2.) Regulatory Authority (‘RA’) calls application ‘duly made’. If any information is missing, RA requests this from applicant.

3.) RA begins ‘determination’ (process of assessing application and deciding whether to permit or not). RA notifies applicant of how long this process will take and may request further information.

4.) RA consults on the more complex applications within 30 days of the duly made date. Details of the application are placed on the RA’s website and may also be publicized in a local newspaper. Any comments received are considered as part of the application.

5.) For complex applications, the RA allows the applicant an opportunity to comment on the draft permit or notice before it is completed.

6.) If the application is refused, the RA discusses the reasons with the applicant and provides a notice to explain the decision.

7.) When the document is issued, the RA explains the applicant’s rights of appeal against the decision.

The process applies for all water types and scales.

Regarding permits for impoundments and hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management. River basin administrators are state enterprises that deal with state property, mainly with water reservoirs. The river basin administrators are independent and they act in public interest.
Regarding permits for abstractions, point source discharges and diffuse pollution measures, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

**7.3 Enforcement of permits: authorities**

The Czech Environmental Inspectorate, which reports to the Ministry of Environment, is the lead enforcement authority. It is a national body with 10 regional inspectorates.

In addition, enforcement powers are given to the 14 regional authorities and within their territories to the two hundred local authorities.

The Ministry of Environment and Ministry of Agriculture are the central water authorities with a shared competence to oversee the work of regional and local authorities.

There are no separate authorities responsible for enforcement of different economic sectors. The Czech Environmental Inspectorate enforces water permits across different sectors, including industry, agriculture and hydroelectric installations. Local and regional authorities also enforce water permits across various sectors.

The Czech Environmental Inspectorate focuses on the identification and sanctioning of infringements of the environmental law, incl. water law and permits, but it has no competence to issue water permits. On the other hand, regional and local authorities have broad competences to issue water permits, but they rarely impose sanctions. If they do so, they usually punish non-compliance with the permits they issued. If local and regional authorities identify an infringement which they are not able to prosecute due to lack of capacity or for other reasons, they report it to the CEI for further prosecution and sanctioning.

There are no separate authorities responsible for the enforcement of different types of water-related permits. The Czech Environmental Inspectorate and the regional and local authorities enforce all types of water permits.

For agriculture: it can be noted that good agricultural and environmental condition (GAEC) for farms is not subject to permitting (GAEC is voluntary while, on the other hand, being a precondition for farmers and farming companies to obtain direct support under Regulation 1782/2003/EC. GAEC is enforced by the State Agricultural Intervention Fund (Státní zemědělský intervenční fond). In case of non-compliance, direct support will be decreased or in extreme cases completely withdrawn.

In addition, the Central Institute for Agricultural Inspections and Testing (Ústřední kontrolní a zkušební ústav zemědělský) supervises the cross-compliance of farmers with other legislation aimed at water protection such as the Nitrates Directive 91/676/EEC, Directive 80/68/EEC on the protection of groundwater, Directive 86/278/EEC on sewage sludge and the minimum requirements on the usage of fertilisers in the framework of the agri-environment measures pursuant to the national Regulation 79/2007 Coll. If the Central Institute for Agricultural Inspections and Testing identifies an infringement of the above mentioned legislation, a report is made to the State Agricultural Intervention Fund which may decrease or withdraw the direct support for the perpetrator.

Both the State Agricultural Intervention Fund and the Central Institute for Agricultural Inspections and Testing are subordinated to the Ministry of Agriculture.
7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
As was described above, both the Czech Environmental Inspectorate and the regional and local authorities may enforce water permits. Pursuant to Article 125l (7) of the Water Act 2001, if both the CEI and a regional or local authority start a sanctioning procedure for the same breach of a permit or of the Water Act in general, the authority which started the procedure first shall continue with it. If they started on the same day, then the local or regional authority shall continue.

Besides this specific provision which coordinates the sanctioning competences, there are a number of other tools which help coordinate the enforcement of water legislation and water permits:

- The Ministry of Environment organises regular yearly seminars for the CEI and the local and regional authorities and the Ministry of Agriculture organises seminars for local and regional authorities. Each Ministry organises its seminars separately to cover the water issues including issues of water law enforcement in its competence.
- Further, both Ministries cooperate on the preparation and implementation of new water legislation. If the Water Act is significantly amended, they jointly issue a commentary to it in which they explain both the old and the amended provisions. They also cooperate on the drafting of methodologies which serve to unify the decision making practice of the CEI and the local and regional authorities.
- Last but not least, the Ministries jointly run a Water Web Portal under the Information System of the Public Administration (http://voda.gov.cz/portal/). The Portal contains large amounts of technical and scientific data relevant for water permitting and enforcement.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are separate entities. Water management and permitting/enforcement are carried out by separate authorities.

Over 90 % of the Czech waters are managed by state owned river basin management companies (see above). The remaining waters are managed by municipalities, the state owned forest management company (Lesy ČR a.s.) and the administrations of nature protection parks.

The enforcement authorities and the water managers coordinate their activities, in particular for water planning and permitting. Thus, the water managers either prepare or are at least involved in the preparation of water management plans together with the permitting/enforcement authorities. Water managers also submit opinions in water permitting procedures conducted by the permitting/enforcement authorities.

7.5 Enforcement actions

7.5.1 Number of inspectors
The Czech Environmental Inspectorate has about 500 inspectors covering all fields out of whom around 90 specialise in water issues. The number of water experts working at the regional and local authorities cannot be determined as these experts administer various
water related agendas. The latter experts however focus on permitting, not on the enforcement which is mainly carried out by the Czech Environmental Inspectorate.

7.5.2 Number of inspections
The Czech Environmental Inspectorate undertook 3432 inspections related to water and industrial accidents (the two categories are listed together) in 2010: of these, 1898 were planned and 1534 were unplanned. A total of 40 accidents related to surface and groundwaters were investigated, including several that occurred during floods. The number of inspections carried out by the regional and local authorities is not available.

A total of 715 inspections of IPPC facilities were carried out by the Czech Environmental Inspectorate in 2010. Water inspectors participated in 250 of them.

CEI carried out inspections of 76 agricultural entities in 2010. In addition, 49 inspections were carried out concerning 37 entities involved in fishery management / fishfarming.

The 2010 inspections included 184 UWWT plants serving over 10,000 PE, as well as 32 major sources of industrial wastewater. In addition, CEI inspected 93 small hydropower plants: a number of problems were identified concerning their water handling permits and their procedures.

7.5.3 Number of infringement actions
In 2010, the Czech Environmental Inspectorate (CEI) issued 557 administrative decisions concerning fines, for a total of CZK 28.1 million (about 1.1 million Euros). Fines for unauthorised groundwater withdrawals totalled CZK 5.8 million (about 230,000 Euros). Data on the sanctioning decisions issued by the regional and local authorities is not available.

In total, 152 decisions on fines for IPPC facilities were finalised in 2010, for a total of CZK 16.2 million (about 640,000 Euros). These cover all aspects of IPPC permits. Water inspectors cooperated on 25 out of the 152 mentioned decisions.

In 2010, CEI imposed 19 fines on agricultural enterprises for a total of CZK 70,000 (about 2800 Euros). In addition, 6 fines totalling CZK 95,000 (about 3750 Euros) were imposed on fishery / fishfarming entities.

No fines were reported for UWWT over 10,000 PE. CEI imposed 24 fines (totalling 875,000 CZK - about 34,500 Euros) on UWWT plants under 10,000 PE.

7.5.4 Other mechanisms (in addition to inspections)
Besides the inspection activities of the Czech Environmental Inspectorate, there is the so called water management supervision carried out by the regional and local authorities and the supreme water management supervision executed by the Ministry of Environment and the Ministry of Agriculture.

The goal of the water management supervision is to verify whether the water legislation and permits are complied with. The supervising authorities are entitled to impose remedial measures if they identify a case of non-compliance. The supervising authorities may request cooperation from expert entities, entities monitoring the quality of water, nature protection authorities, environmental and fishing NGOs or any other bodies. Local authorities with extended competencies and regional authorities also supervise water
management structures (e.g. dams, dykes, reservoirs) whose state could endanger the safety of persons or property.

The supreme water management supervision focuses on verifying whether local and regional authorities and the Czech Environmental Inspectorate properly implement the Water Act and other legislation based on it. The supreme water management supervision also includes the right of the supervising Ministries to verify the compliance with the Water Act and other legislation based on it, the compliance with the decisions of the regional and local authorities and whether the owners of water management structures, water flow managers and river basin managers fulfill their duties. If they identify non-compliance, they may impose remedial measures. The Ministry of Agriculture and Ministry of Environment submit to the Government every year a report evaluating the supervisory activities in the past year.

In addition to the mentioned legal tools, there are EMAS and ISO as voluntary tools. Some enterprises are introducing these tools, mainly in response to the transposition of Directive 2004/35/EC on environmental liability.

### 7.6 Types of administrative and criminal sanctions

#### 7.6.1 Sanctions established in national legislation

Both administrative and criminal sanctions can be applied for violations of water permits.

The enforcement authorities mainly impose fines or remedial measures. The remedial measures include for example a request to carry out monitoring, to refurbish industrial sites to prevent leakages or to update an environmental risk analysis in case of old pollution. In exceptional and extreme cases, the enforcement authorities can prohibit an activity or close down a facility.

Under the Water Act, fines can be imposed for a broad range of violations (listed in from section 116 to 125k). The level of fines depends on the specific violation: they range up to 10,000,000 CZK (approx. 40,000 Euros), for the illegal abstraction of surface water or groundwater by a legal person or a natural person carrying out a business activity.

Criminal sanctions can also be imposed on natural and legal persons. The basic criminal sanction is imprisonment which may be combined with other penalties such as a financial penalty, prohibiting an activity or forfeiting a thing or property value.

#### 7.6.2 Sanctions normally brought for water violations

For infringements committed by natural persons not carrying out a business activity, the enforcement authorities may choose to issue a warning instead of imposing a fine. They may also refrain from any sanctions if they deem that the carrying out of the sanctioning proceedings itself was sufficient to reform the offender.

For reasons of procedural economy, the Czech Environmental Inspectorate – in minor cases - first informally requests the perpetrator to take remedial measures. The informal request is written down in the inspection protocol. Only if the perpetrator does not remedy the infringement within a given deadline, the Czech Environmental Inspectorate proceeds with formal sanctions. In all cases, the enforcement authorities may stop the sanctioning procedures if the perpetrator remedies the harm caused by the violation and takes measures to prevent further harm so that the imposition of a sanction would be considered too harsh with respect to the costs of the measures taken.
7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
As strengths can be considered the sufficiently dissuasive rates of fines and the independence of the Czech Environmental Inspectorate as a centrally organised body of State administration.

On the other hand, the regional and local authorities are organised by regions where they carry out both the State administration and self-administration. This dual position does not contribute to their independence.

7.7.2 Weaknesses of the system of inspections and enforcement
To carry out controls more frequently and to strengthen powers of control bodies (for example including the right to enter people’s homes so as to uncover illegal groundwater abstraction).

In addition, the decision–making practices of the various appeal authorities should be better unified. The regional authorities have a position as appeal authorities vis-a-vis the local authorities. In a similar fashion, the Ministry of Environment is the appeal authority for the regional authorities in certain water issues and for the Czech Environmental Inspectorate in all issues. The Ministry of Agriculture is the appeal authority for the regional authorities in all matters in which the Ministry of Environment does not have competence to decide on appeals.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is not thought that the RBMPs have strengthened enforcement.

The Czech Republic traditionally had a strong water permitting and enforcement before the harmonisation with the EU law. That is why the transposition of WFD including the requirements on RBMPs contributed to other aspects and not to permitting and enforcement. For example, it enhanced planning and added new, esp. environmental objectives. It further improved the monitoring of the fulfillment of the objectives and the assessment of water quality. In general WFD and its RBMPs helped make the water management, planning and permitting more environmentally friendly.
8 References

All Czech legislation in force can be found at the government website http://portal.gov.cz/wps/portal/_s.155/6966/_s.155/699/place

Compliance check of RBMPs - 'assessment of RBMPs' questionnaires (1. Governance) for the CZ RBDS.

Comprehensive information on river basin management planning can be found at the website of the Ministry of Agriculture

Criminal Code.


Czech Water Act (2001, including amendments to 2010): English version is not yet available.

www.eagri.cz


Interviews with IMPEL and SCG experts

Legal information can be found in the Act No. 254/2001 Coll., Water Act, and its implementing Decree No 24/2011, Coll.


Wise summary reports for CZ, chapter 1 (governance).
1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Länder Ministries for the Environment</td>
<td>Working Group on water issues of the Federal States and the Federal Government (LAWA)</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Länder Ministries for the Environment</td>
<td>National River Basin Committees, German Federal Waterways and Shipping Administration</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Länder Ministries for the Environment</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Länder Ministries for the Environment</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Länder authorities – varies between Länder.</td>
<td></td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.

Germany has transposed the WFD by federal legislation (Water Act (Wasserhaushaltsgesetz), Ordinance for the Protection of Surface Waters (Oberflächengewässerverordnung), Ordinance for the Protection of Groundwater (Grundwasserverordnung). In the federal state of Germany federal provisions transposing EC water legislation in particular the WFD are implemented by the federal
states (Länder). The competent authorities with regard to WFD implementation are the highest state environmental authorities, i.e. the "Länder" Ministries for the Environment.

The administrative arrangements with regard to water management have not been changed since the publication of the RBMPs.

1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.). The competent authorities with regard to WFD implementation (for all water categories) are the highest state environmental authorities, i.e. the "Länder" Ministries for the Environment.

Independently of the responsibilities regarding the different water categories, the Länder’s competent authorities in water management and the Federal Environment ministry cooperate and coordinate their activities in the "Bund-Länder Arbeitsgemeinschaft Wasser" ("Working Group on water issues of the Federal States and the Federal Government", LAWA).

1.2 Authorities involved in preparing and approving the RBMPs

The main responsibility to prepare the RBMPs lies with the competent authorities of the Länder (i.e. the ministries for the environment). Within the Länder several administration levels are involved in the preparation of the RBMP. All Länder have established national coordination structures, which differ according to the administration structure in each Länder.

As the RBDs surpass administrative boundaries, the Länder are required (§ 7 (2) of the Water Act) to cooperate in this matter. In the case that several Länder share parts of a national or international RBD, those Länder have established national working structures or committees in order to coordinate the implementation of the WFD. E.g. there are national river basin committees – based on national agreements – for the Elbe, the Weser, the Ems and the Rhine basins. The forms of coordination are varying from RBD to RBD, and, accordingly, also the fact whether the competent authorities came up with a single, coordinated RBMP, or not (e.g.: in the Elbe, Ems, Weser and Odra RBDs, the authorities of the Länder cooperated and prepared a shared RBMP; in other RBD, such as the Rhine and Danube, each of the competent authorities submitted their own plan for their share of the RBD, but included the transboundary national coordination in those plans).

The RBMP have been approved e.g. either by the governments (cabinet of ministers) or the Länder parliament.

With regard to national waterways the German Federal Waterways and Shipping Administration is responsible – due to the new Water Act – with regard to restoring river continuity in waterways and with regard to waterways maintenance. RBMPs are coordinated between this administration and the competent authorities.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.
2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The authorities that request monitoring are described below.

As with the preparation of the RBMPs and the PoMs, the responsibility for the monitoring programmes for surface and groundwater lies with the Länder, i.e. with the competent authorities at the state level (the Ministries for the Environment). These competent authorities themselves, however, are free to delegate the task to their own lower/subordinate authorities or advisory agencies; therefore, the responsibility for the monitoring programmes varies from state to state, according to the respective Länder’s legislation and administrative structure. The competent authorities and their respective subordinate authorities are responsible for all three types of monitoring according to Annex V (1.3) of the WFD. Usually, the monitoring is being undertaken by their own staff, in some cases e.g. analytics itself may be outsourced to external, accredited laboratories. If applicable data are available from other monitoring programs, e.g. NiD may also be used for monitoring according to WFD, therefore, the "mixture of both"-box has been ticked below). In any case only officially certified data are used.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

The ministries for the environment at the federal state level, and their subordinate authorities are responsible for all three types of monitoring (surveillance, operational and investigative) in all water categories (rivers, lakes, transitional, coastal, AWBs and groundwaters).

As the subordinate authorities are part of the administrative hierarchy of the respective state ministry, they actually cannot be regarded as "different authorities"; therefore, there are no formal coordination mechanisms necessary.

3 Integration
The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies
The responsible authorities for each directive / policy are named in the table below (Table 2).
### Table 2: Summary of responsible authorities for different directives & policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>The same authorities as for the WFD: i.e. the respective ministries for the environment of the Länder (and the respective authorities at district and city/county level) are responsible.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>In principle the agricultural ministries on federal and Länder level. One of the main legal transposition instruments, the Fertilisers’ Ordinance, lies in the responsibility of the Federal Agriculture Ministry.</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>The Länder authorities are responsible for bathing waters either the environment authorities or the health authorities (different in the Länder).</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Federal Ministry for Health; this ministry or one of its divisions are not directly involved in drafting the RBMPs. District/city level: Health authorities on those levels, the water supply entity/corporation is responsible for providing drinking water of a quality regulated by federal law (Drinking Water Ordinance, which also transposes the EU Drinking Water Directive).</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Same authorities as for the WFD implementation.</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>For coastal waters Länder authorities are responsible whereas federal authorities are responsible for the exclusive economic area (§ 45i WHG). -Concerning coastal waters the ministries for the environment and the authorities at district and city/county level are responsible.</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Mainly nature protection authorities on Länder level (environment ministries, district, county and local level)</td>
</tr>
<tr>
<td>Climate</td>
<td>There is no single administrative branch responsible for climate change or adaptation policies in Germany, as there is no single &quot;climate change law&quot;, or something similar. Instead, the competencies are diverse, depending on the concrete topic. The most important responsibilities are:</td>
</tr>
<tr>
<td></td>
<td>- emission registry and reporting to the EU: Federal environment agency (UBA), under the jurisdiction of the federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU).</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority. Coordination on the federal level, i.e. between federal ministries, takes place through the cabinet of ministry (ministers forming the federal government). The same is valid for the Länder level. Some Länder have WFD coordination structures in place, like internal committees, in which the important authorities gather and discuss and organise the WFD implementation.

Not directly related to the question: In questions of water management, coordination between the federal and the Länder level takes place through the "Bund-Länder Arbeitsgemeinschaft Wasser" ("Working Group on water issues of the Federal States and the Federal Government", LAWA); such working groups exist in other policy fields as well (e.g. marine protection).

3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (Table 3).

Table 3: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
</table>
| Agriculture     | Federal level: Ministry for food, agriculture and consumer protection. Länder level: the respective ministries for agriculture. District/city/county level authorities according to the individual state’s legislation.  
In some Länder’, the ministries for agriculture are the same ministries as for the environment. In other Länder, there are two separate ministries for agriculture and the environment. The agricultural authorities are involved in the establishment of the RBMP and in the preparation of the PoMs, as many measures need to be implemented under the responsibility of the agricultural administration. The Federal Ministries are not involved in preparing the RBMPs/PoMs as the Länder level is mainly responsible for WFD implementation. |
<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td><strong>Drinking Water</strong></td>
</tr>
<tr>
<td></td>
<td>Federal level: Federal Ministry for Health; this ministry or one of its divisions are not involved in drafting the RBMPs.</td>
</tr>
<tr>
<td></td>
<td>District/city/county level health authorities, the water supply entity/corporation is responsible for providing drinking water of a quality regulated by federal law.</td>
</tr>
<tr>
<td></td>
<td><strong>Wastewater</strong></td>
</tr>
<tr>
<td></td>
<td>In principle same authorities responsible for wastewater and preparation of the RBMPs, see above.</td>
</tr>
<tr>
<td>Energy</td>
<td>Federal level: ministry of economics and technology (conventional energy), ministry for the environment (renewables and nuclear energy supervision and safety), Ministry for food, agriculture and consumer protection (biofuels).</td>
</tr>
<tr>
<td></td>
<td>Länder /district/city/county level: the respective authorities execute the regulations issued on the federal level (i.e. issuing of project or emission permits, etc.); the authority responsible varies from topic to topic (emission: environmental administration; building: planning authorities, etc.), and from state to state (depending on the individual Länder´s legislation). Responsibility for implementing measures lies mostly with the district/city/county authorities, as regulated by the individual Länder´s legislation.</td>
</tr>
<tr>
<td>Transport</td>
<td>Federal level: ministry of transport, building and urban development.</td>
</tr>
<tr>
<td></td>
<td>Länder level: the respective ministries for transport.</td>
</tr>
<tr>
<td></td>
<td>District/city/county level authorities according to the individual Länder´s legislation. As some aspects of the WFD implementation fall under the jurisdiction of the national Water and Shipping authorities (Wasser- und Schifffahrtsverwaltung) responsible for inland waterways, the respective federal authorities are involved in drafting the RBMPs.</td>
</tr>
<tr>
<td>Industry</td>
<td><strong>IPPC</strong></td>
</tr>
<tr>
<td></td>
<td>Often the same authorities – but different departments - responsible for IPPC and RBMP/WFD: the respective ministries for the environment and the authorities at district and city/county level are responsible.</td>
</tr>
<tr>
<td></td>
<td><strong>Non IPPC</strong></td>
</tr>
<tr>
<td></td>
<td>Regulation of industry activity not concerning emissions and safety of installations (e.g. safety, trade etc.) falls under the jurisdiction of the ministry of economics and technology (on the federal level), and the respective Länder ministries and authorities on district and city/county level. These authorities are not directly involved in preparing the RBMPs, but some authorities may be involved in implementing measures, e.g. via permits, depending on the topic, and the respective Länder´s legislation.</td>
</tr>
<tr>
<td>Driver / Sector</td>
<td>Responsible Authority</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
</tr>
</tbody>
</table>
| Mining          | Federal level: Ministry of economics and technology.  
Länder level: respective Länder ministries of economics.  
District/city/county level authorities ("Bergbehörde"). These authorities are normally not directly involved in preparing the RBMPs; in some areas, where mining is important, these authorities will, however, be involved significantly in implementing measures, especially with regard to permits for mining activities. Such responsibilities are regulated by the respective Länder´s legislation. |

Because there are different authorities, there is a need for coordination with the main WFD competent authority. Coordination on the federal level, i.e. between federal ministries, happens through the cabinet of ministers. Same is valid for the Länder level.

In questions of water management, coordination between the federal and the Länder level takes place through the "Bund-Länder Arbeitsgemeinschaft Wasser" ("Working Group on water issues of the Federal States and the Federal Government", LAWA); such working groups exist in other policy fields as well (e.g. marine protection).

### 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

The Länder carry out the stakeholder consultations of the public and other authorities on the regional and local level. Authorities of other Länder or Member States participate in the establishment, review and update of RBMPs and PoMs through the coordination procedure as stipulated by the Water Framework Directive. For example according to § 131 LWG of Schleswig Holstein the environmental ministry is responsible for coordinating RBMPs and PoMs with all other Länder, Member States and the Federation (Bund).

§ 85 WHG generally requires the competent authority to promote the active participation of all interested parties with regard to the establishment, the revision and the update of RBMPs. § 83(4) WHG contains more specific requirements concerning the public participation procedure for the establishment, review and update of RBMPs according to the provisions of Article 14 WFD.

The Länder implemented further measures to promote stakeholder consultation. For example, the environmental ministry of North-Rhine Westphalia set up several working groups where representatives of the environmental agencies of the Länder and Länder-wide interest groups developed standard procedures, among others, for the preparation of a RBMP. Furthermore, these working groups collaborated with already established
forums of cooperation, such as the ‘Framework Agreement WFD/Agriculture’, the ‘Dialogue Economy and Environment’, and the ‘Waternetwork NRW’.  

Another example is the regional government of Münster (city of North-Rhine Westphalia (NRW)) that is responsible for the sub-river basin Ems/NRW. It established core working groups (Kernarbeitsgruppen) and regional forums (Gebietsforen) to involve regional stakeholders including representatives of municipalities, registered associations and regional state agencies in the preparation process of the RBMP. Members of the core working group in the sub-river basin Ems/NRW meet twice a year to support and advise the management office Ems/NRW with respect to all matters of the implementation of the WFD. Regional forums are organised once or twice a year to exchange information and discuss specific aspects of the implementation of the WFD with a broader spectrum of regional stakeholders.

Similar organisational structures have been established at the local level. For example, in the sub-river basin Ems/NRW four round tables – each covering two or more planning units – were set up for the systematic and constant involvement of the local public, including water users, interest groups, and municipalities. At these round tables information on the state of the water bodies in the area and current water uses as well as restrictions and options for improvement and potential conflicts was exchanged.

Similar bodies and processes have been established in the other Länder.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD.

No new authorities in a strict sense were created; in the RBDs, however, the competent authorities established informal and formal coordination bodies like new agencies in form of “River Basin Associations” like FGG Elbe, FGG Weser, FGG Rhein, FGG Ems for coordinating the preparation of the RBMPs, also in an international context; these may now even be employed in the implementation process of the floods directive. These associations do not have any legal competences but are coordinating and consulting bodies of the Länder involved in a RBMP.

To facilitate the voluntary reporting to WISE the BfG established the service.

No significant changes have been made to existing authorities as a result of the WFD. To implement the WFD, some aspects (such as the designation of the RBDs) had to be clearly described in the Water Act; no new competencies were created, however.

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29 MUNLV 2009, and Theesfeld/Schleyer, see above.

30 MUNLV 2009, and Theesfeld/Schleyer, see above.
Instead, the obligations of the WFD were subsummed under already existing competencies.

6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

At the level of the Bund the legal effect is not regulated. At the level of the Länder it is partly regulated.

For example, pursuant to § 131 (2) LWG of Schleswig Holstein, the environmental ministry may declare the entire or parts of RBMPs and PoMs legally binding for all authorities. This was done for the part of the RBMP, which concerns the Land Schleswig Holstein.

According to § 2f last sentence LWG of North-Rhine Westphalia RBMPs and PoMs are legally binding for the parts of the river basins situated North-Rhine Westphalia in relation to all administrative decisions (behördliche Entscheidungen).

In other Länder the legal effect of the RBMP is not regulated.

The new Water Act\(^{31}\) (Gesetz zur Ordnung des Wasserhaushalts - WHG) entered into force on 1 March 2010 and repealed the WHG 2002 without substantially amending the national provisions on river basin management plans (Bewirtschaftungspläne – RBMPs) and programmes of measures (Maßnahmepläne – PoMs). § 7 WHG identifies the ten national river basin districts and requires the competent authorities of the 16 federal states (Länder) to coordinate RMBPs and PoMs between each other and with the competent authorities of other EU Member States and third countries. § 82 and § 83 WHG require the competent Länder authorities to establish RBMP and PoM for each of these units and to monitor and update them. The 16 Länder water management acts complement these provisions.

The Länder are responsible for adopting and implementing RBMPs and PoMs. Hence, the Länder water management acts determine the competent authorities. These are the Länder environmental ministries. For example in Schleswig Holstein\(^{32}\), the Ministry of Agriculture, the Environment and Rural Areas and in North Rhine-Westphalia\(^{33}\) the Ministry of the Environment and Conservation, Agriculture and Consumer Protection are responsible for developing and establishing RBMPs and PoMs.

To achieve inter-governmental co-operation in relation to waters, the environmental ministries\(^{34}\) established a joint working group, called the LAWA (Bund/Länderarbeitsgemeinschaft Wasser - the Federal Working Group on Water Issues). The purpose of the LAWA is, to discuss matters of common interest and to prepare joint reports on water issues. There are comparable working group for other areas like soil (LABO) nature protection (LANA) and waste (LAGA).

\(^{31}\) OJ I p 2585.
\(^{32}\) § 131 of its LWG.
\(^{33}\) § 136 of its LWG.
\(^{34}\) Usually the respective Ministry of the Environment of the Länder is responsible for strategic decisions in water management and supervision of lower water authorities and agencies.
RBMPs for river basins that go through different Länder and Member States were in several cases established through a joint procedure. For example the river basin community Elbe (Flussgebietsgemeinschaft Elbe)\textsuperscript{35} adopted the German part of the international river basin management plan Elbe.\textsuperscript{36} This community consists of different organs that coordinate the work of the Länder and adopt the RBMP\textsuperscript{37}. In other cases, like in North-Rhine Westphalia\textsuperscript{38}, the Länder have adopted their own RBMPs for their parts of broader national or international river basins.

Neither the WHG nor most Länder laws define the legal nature of RBMPs or PoMs. Some laws of the Länder lay down provisions that allow the adoption of parts of PoMs as legally binding ordinances if needed.\textsuperscript{39}

6.1.1 Legal effect
Like the WFD German federal water legislation does not specify explicitly the legal nature of RBMPs and PoMs. The same is true for water legislation in most of the Länder. There is consensus, however, that RBMPs and PoMs are binding for the authorities responsible for water management. The provisions of RBMPs and PoMs have for example, specific determining effects as regards the management discretion of authorities when they decide on water use permits (§ 12(2) WHG). Authorities may also invoke them to interpret and specify broad legal notions as for example the notion ‘adverse changes to waters’ (§ 12(1)(1) in conjunction with § 3(10) WHG).

The WHG generally defines the environmental objectives for surface waters, coastal waters and ground water as required by the Water Framework Directive. These general objectives must be respected by the competent authorities in all their decisions. They are not directly binding for third parties.

RBMPs of the Länder specify these environmental objectives and some Länder explicitly declared them to be binding for authorities. For example, in Schleswig Holstein these specifications are contained in that part of the RBMP which was explicitly declared binding for the authorities. In North-Rhine Westphalia they are binding according to § 2f of its LWG. They are not directly binding for third parties. In the Länder where no explicit provisions on the binding character of RBMPs exist, specifications of RBMPs concerning the environmental objectives are nonetheless binding for authorities as well.

6.1.2 Legal status in relation to individual decisions
§ 8 and the following provisions of the WHG lay down that all kinds of water use are subject to a permit or a licence. This includes the use of water for hydropower installation, the abstraction for agriculture and the use of water and the discharge of waste water by industrial installations.

§ 12 of the WHG lays down that the competent authority must reject a permit for water use if otherwise adverse changes to water bodies cannot be avoided or other requirements of federal or Länder laws are not met. Taking this into account, the competent authority must not grant a permit if the water use would endanger the

\textsuperscript{35} http://www.fgg-elbe.de/tl_fgg_neu/fgg-elbe.html.
\textsuperscript{36} This may also be the case for other river basins.
\textsuperscript{38} http://www.flussgebiete.nrw.de/Bewirtschaftungsplanung/FGG_PI_ne/index.jsp.
\textsuperscript{39} For example: § 7a SächsWG, § 3f WG BW, § 24 (3) LWG of Rheinland Pfalz, see also: Alexander Windoffer, Verfahren der Folgenabschätzung als Instrument zur rechtlichen Sicherung von Nachhaltigkeit, Mohr Siebeck, 2011, p. 401.
environmental objectives as specified in RBMPs for surface and coastal waters as well as ground water. In contrast to e.g. Federal Immission Control Act (BImSchG) there is no legal claim to receive a permit, even if all substantial requirements are met.

§ 13(2)(a) WHG leaves it to the discretionary power of the competent authorities to set supplementary conditions before and after the granting of a permit for water use and stipulates to set such conditions if they are necessary for the implementation of a PoM.

Pursuant to § 86 WHG so as to ensure the realisation of projects according to PoMs (§ 82 WHG) Länder governments may – by means of statutory ordinance - identify planning areas, in which the realisation of changes detrimental to the projects envisaged by PoMs or value adding changes to the areas concerned are prohibited (Veränderungssperre).

§ 82(5) WHG stipulates that if on the basis of the monitoring or other findings the competent authorities come to the result that the environmental objectives cannot be reached, they must analyse the reasons. In addition, the permits for water use and monitoring programmes must be reassessed and, if necessary, adapted. Furthermore, additional measures have to be introduced into the programmes of measures.

Many Länder laws complement these requirements for water use permits. E.g. § 24 LWG of North-Rhine Westphalia entitles the competent authority to grant a permit with conditions, if these conditions are necessary to comply with the environmental objectives and PoMs as adopted by North-Rhine Westphalia.

In general, the WHG and the Länder water management acts do not set deadlines for the review of existing permits for water use or installations.

The following subsections describe how the RBMP is included in the permitting decision process: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

In addition to the general requirements set for water use permits, the WHG stipulates that impoundment facilities (dams) may only be permitted if suitable devices or modes of operation are used/apply in order to maintain or restore river continuity where this is necessary in order to achieve the environmental objectives (§ 34 (1) WHG). If existing dams fail to meet these requirements, the competent authority shall make the necessary arrangements to restore continuity in order to meet the environmental objectives (§ 34 (2) WHG). Furthermore pursuant to § 35 WHG the use of hydropower shall not be authorised unless suitable measures are taken to protect the fish population. If existing hydropower uses fail to meet this requirement, the necessary measures shall be carried out within a reasonable period of time. Impoundments of surface water bodies or the withdrawal or diversion of water from surface water bodies is only admissible if the flow volume required for the water body and other associated water bodies in order to meet the environmental objectives is maintained (§ 33 WHG).

For example, pursuant to § 99 LWG of North-Rhine Westphalia installations in or at water bodies should be permitted in a revocable way, can be denied or should be subject to an ex-post condition (i.e. conditions set after the construction was permitted), if this is necessary to achieve the environmental objectives and the requirements of a PoM.
The establishment, removal or substantial modification of water bodies (water body development) must take into account the requirements of PoMs according to § 100(1) of the LWG of North-Rhine Westphalia. The ex-ante and ex-post stipulation of conditions, changes or supplementary measures are explicitly allowed according to § 100(6) of this LWG, if this is necessary for the achievement of the requirements of PoMs.

**Abstraction for agriculture**

In addition to the general permit requirement for water use permits, the abstraction of water is not further regulated. Pursuant to § 46 (1) WHG groundwater abstraction for certain agricultural purposes does not require a permit provided there is no reason to fear any significant adverse effects on the water balance.

**IPPC and other industrial installations**

Industrial installations are subject to a permit requirement under the Federal Immission Control Act. The competent authority is only entitled to grant permits, if installations comply with emission limits and other federal or Länder laws. In addition, they are subject to separate authorisation regimes under the Federal Water Act (for water uses associated with the installation, in particular waste water discharges into surface water bodies).

**6.2 Relationship with other sectoral policy plans**

The principles and the general rules for the spatial planning of the Länder are stipulated in the federal Spatial Planning Act (Raumordnungsgesetz - ROG). Within its frame the Länder establish the spatial planning for their territories (Landesplanung). The basis for the land use planning of the municipalities (Bauleitplanung) is the Federal Act on Constructions (Baugesetzbuch - BauGB).

When establishing or updating the spatial plans the competent authorities of the Länder must carry out an environmental assessment that includes an assessment of the impacts of the planning on waters when it establishes and updates these plans. The competent authorities must take the results of the assessment into account without being required to implement them on a one-to-one basis. It falls into the discretionary power of these authorities to weigh them up against other factors.

Authorities that are concerned by this planning are entitled to participate in it. Other authorities and the public can comment on the draft plans within a period of one month.

The competent authorities of the Länder or municipalities are required to monitor the implementation of the plans and to inform the competent water authorities when they realise that the implementation adversely impacts water bodies in a significant way.

The Federal Act on Construction requires municipalities to carry out an environmental assessment of how their land use plans (Bauleitpläne) will impact the environment. In addition, it requires them to take water-related plans including RBMP into account when it establishes and updates these plans. It is left to the discretionary power of the municipalities to weigh these factors against others. The municipalities, however, when establishing or updating land use plans have to consider that any authorisation necessary pursuant to federal or Länder water legislation can only be granted if the project complies with the environmental objectives specified in RBMPs. Municipal land use plans do not touch upon the necessity of such authorisations.
Municipalities are further required to inform other authorities that may be concerned by the planning of the draft plan and its statement of reasons; and to enable them to comment on these documents within one month. These authorities are also entitled to ask for a more detailed environmental assessment. The public and other authorities are entitled to comment on the plan within the same time frame.

Neither the Federal Spatial Planning Act nor the Federal Act on Construction require the competent authorities to review or update spatial plans and land-use plans within a certain time frame to ensure compliance with PoMs or RBMPs. But RBMPs like any other technical plans have to be coordinated with other existing planning, according to the spatial planning principles. In principle, there should be no conflicting planning approaches. Until now such conflicts did not occur.

The EU Floods Directive was transposed into German law by the WHG of 31 May 2009 (chapter 3 section 6 of the WHG).

The competent authorities shall coordinate the establishment and the updates of flood risk management plans with RBMPs pursuant to § 80(2) WHG. Flood risk management plans may be integrated into RBMPs.

According to the ‘Recommendations for the Establishment of Flood Risk Management Plans’ of the LAWA the objectives of the Water Framework Directive, which are set out in RBMPs, should be taken into account in the areas of “precautionary land use” and “natural water retention”, and should be developed further and implemented as appropriate. Furthermore, it advises the competent authorities to examine, assess and compile documents containing other data and existing studies, especially RBMPs, in a preparatory work, in order to ensure that the process of identifying objectives of flood risk management is efficient.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

The type of activity for which the permit will be issued and which water body is affected (big rivers, smaller tributaries etc.) determine which authority (e.g. district or county/municipality level) is competent in the respective case. The responsibilities are regulated by the respective Länder’s legislation. The above mentioned pressures/activities are mostly water uses pursuant to the Water Act (§ 9) requiring permits or licences (§ 8) and therefore fall under the responsibility of the respective

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water management authority. There may be the obligation of cooperation with other relevant authorities, e.g. immission or nature. Depending on the type and scale of the project a formal Environmental Impact Assessment can be necessary as well. However, impoundments and hydromorphological alterations may also be considered as "creation, elimination or significant restructuring" of a water body (§ 68 WHG) which are subject to plan approval. Plan approvals are issued by the water management authority or a different authority (§§ 19 and 68 Water Act). Measures for the creation, elimination or significant restructuring of inland waterways require plan approval pursuant to § 14 of the Federal Act on Waterways (Bundeswasserstraßengesetz) instead of plan approval pursuant to § 68 WHG, if the measures serve transport purposes. Such plan approvals are issued by Federal Waterways and Shipping Administration (Wasser- und Schifffahrtsverwaltung).

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

Co-ordination on permitting is generally done by subordinate authorities, as these are part of the administrative hierarchy of the respective Länder ministry, they actually cannot be regarded as "different authorities".

There are different authorities for different water users, as indicated in the table below (Table 4).

**Table 4: Permits and the Competent Authorities**

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>The authorities responsible for licensing abstractions are the authorities on the district and city/county level, according to the respective Länder’s legislation.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>See information above. In addition: Depending on the scope of the project in question (the &quot;creation, elimination and significant restructuring&quot; of a water body; § 68 WHG), the respective plan approval authority is responsible; furthermore, the procedure for plan approval is different from the procedure for permits/licenses for water uses, and may include an environmental impact assessment, and has more formal provisions for public participation.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>The authorities responsible for licensing point source discharges are in most cases the authorities on the district/city/county level, according to the respective Länder’s legislation. In specific cases the permit may be granted by subordinate authorities on Länder level.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>The authorities responsible for licensing measures causing diffuse pollution of water bodies are in most cases the authorities on the district and city/county level, according to the respective Länder’s legislation. However, in most cases permits are not required</td>
</tr>
</tbody>
</table>
Permits

for diffuse pollution measures.

Hydromorphological alterations

Depending on the scope of the project in question (the “creation, elimination and significant restructuring” of a water body; § 68 WHG), the respective plan approval authority is responsible; furthermore, the procedure for plan approval is different from the procedure for permits/licenses, and may include an environmental impact assessment and has more formal provisions for public participation.

Because different authorities are responsible for permitting for the different water users, there is a requirement for coordination/communication. In the case of projects where the plan approval authority is principally responsible, but has to agree with the water management authority on the issuing of a license (§ 19 WHG), the coordination/cooperation between the two authorities at hand is formally laid out in the respective Länder’s administrative procedural law. This basically incorporates an exchange of information, and mutual agreement on the topic at hand through circulating the respective document/license; if no agreement can be reached, the question is usually transferred to the authorities at a higher level, to be decided there.

### 7.2 Permit applications

The process for application for a permit is described below.

The application process for a license/permit under the German water management act (WHG) is - in conjunction with the federal administrative procedural law (VwVfG) – in principle as follows: 1) The Water Act regulates for which activities/projects a permit/licence (“Erlaubnis/Bewilligung”) is required (§ 8 and 9 WHG); such a permit is in fact a decision made by the respective authority according to a non-formalised procedure, the so-called "Verwaltungsverfahren" and "Verwaltungsakt" ("administrative procedure") (§§ 9ff, 35ff VwVfG). 2) The applicant submits the respective application form and all relevant documentation and information (§§ 10ff, 26 VwVfG) to the responsible authority; this is, in the case of a permit under the Water Act, usually the lower (i.e. district, county or local) water management authority; details, however, are regulated by the respective Länder’s legislation. 3) If all formalities are correct, the authority officially initiates the administrative procedure. 4) Stakeholders and interested parties need to be consulted (§ 11 WHG). 5) The authority decides at its own discretion, based on a thorough analysis of the facts (§ 12 WHG). 6) A permit must not be issued, however, in cases when negative impacts on the water body are to be expected (§ 12 WHG). -->before such a formal decision (Verwaltungsakt) is legally binding, the applicant has to be informed about the decision (§ 41 VwVfG). 7) If a permit is issued, it may contain certain additional obligations for the applicant (§ 13 WHG). 8) If the issuing of the permit is refused, the applicant has the right to file a suit against the decision (§ 79 VwVfG).

There are variations in the process for certain water uses, as outlined in the table below (Table 5).
Table 5: Differences in the permit application process for different water uses

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>No differences in the process.</td>
</tr>
</tbody>
</table>
| Impoundments                  | As described above, in the cases of "creation, elimination and significant restructuring" of a water body (§ 68 WHG), the respective planning authority will be responsible, and a more formalised application procedure, the "Planfeststellungsverfahren" (plan approval procedure), is initiated (§ 19 WHG, §§ 72ff VwVfG). The main differences are:  
  - the "plan", i.e. information regarding the project, has to be published and publicly displayed for the public to analyse and comment (§ 73 VwVfG)  
  - both the applicant as well as the people/organisations that commented on the plan/the project have to be informed about the decision regarding their concerns, including information on possibilities to appeal against the decision (§ 74 VwVfG).  
  - the whole procedure is much more formalised regarding deadlines.  
  - depending on the scope or the expected impacts of the project, a formal Environmental Impact Assessment may be necessary. |
| Point source discharges        | The procedures for discharge permits are similar to the non-formal administrative procedure outlined above. There are, however, some additional substantial requirements laid out in §§ 57-59 WHG. The main requirement is that a permit may only be issued if the waste water discharged is a) in quantity and quality as less polluting/damaging as possible, according to the best available techniques, and b) does not jeopardise the goals/targets of legal obligations regarding water quality. Differences in requirements exist for direct and indirect discharge. |
| Diffuse pollution measures     | The procedures for discharge permits are similar to the non-formal administrative procedure outlined above. In most cases however, no permit is required for diffuse pollution measures.                                                                                     |
| Hydromorphological alterations| As described above, in the cases of "creation, elimination and significant restructuring" of a water body (§ 68 WHG), the respective planning authority will be responsible, and a more formalised application procedure, the "Planfeststellungsverfahren" (plan approval procedure), is initiated (§§ 72ff VwVfG). The main differences are:  
  - the "plan", i.e. information regarding the project, has to be published and publicly displayed for the public to analyse and comment (§ 73 VwVfG)  
  - both the applicant as well as the people/organisations that commented on the plan/the project have to be informed about the decision regarding their concerns, including information on possibilities to appeal against the decision (§ 74 VwVfG).  
  - the whole procedure is much more formalised regarding deadlines.  
  - depending on the scope or the expected impacts of the project, a formal Environmental Impact Assessment may be necessary. |
commented on the plan/the project have to be informed about the decision regarding their concerns, including information on possibilities to appeal against the decision (§ 74 VwVfG). - the whole procedure is much more formalised regarding deadlines. A formal Environmental Impact Assessment may be necessary.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

### 7.3 Enforcement of permits: authorities

The enforcement authorities are organised within the federal states (Länder) and their structure depends to some extent on the administrative set up within each Land.

In North Rhine-Westphalia, for example, the enforcement authorities are the district governments (Bezirksregierungen) as senior water authority and the lower water authorities (Untere Wasserbehörden), located at county/city level. Generally similar structures are seen in the other 15 Länder (it can be noted that Germany's three city-states - the Länder of Berlin, Bremen, Hamburg - have fewer administrative levels and a less articulated structure of enforcement authorities).

Typically, the lower water authority is responsible for most inspections, while larger plants are inspected by higher level authorities. For example, in Hessen, municipal wastewater treatment plants above a certain size are the responsibility of the senior water authority.

There are separate authorities responsible for enforcement of different economic sectors (IPPC, agriculture and hydroelectricity installations).

IPPC: The competent regulatory authorities within each Land are responsible. In some Länder there are Environmental Protection Agencies or Immission Control Authorities at the administrative levels.

Agriculture: In general, the local water authority is responsible for inspections.

Hydroelectricity installations: In general, the county/city authority is responsible for inspections.

The enforcement authorities cover different types of water-related permits (there is no split based on permit type, e.g. abstractions vs impoundments).

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities

No information found.
7.4.2 Between enforcement and water management authorities
The competent authorities for WFD implementation are the Länder ministries responsible for environment, and they involve lower authorities too (see also section "Enforcement of permits: authorities"). Within each Land, there are relationships between the ministries and the enforcement authorities.

7.5 Enforcement actions

7.5.1 Number of inspectors
Little information found (information would be available at Länder level only). For IPPC permits (only), according to 2011 figures, each inspector is responsible for approximately 25 installations (IPPC and non-IPPC installations). In Schleswig-Holstein, for example, 250 IPPC installations are covered by 10 to 15 persons. (Milieu IPPC study).

7.5.2 Number of inspections
Information is available only at Länder level. It can be noted that in Hessen, approximately 30,000 inspections were carried out in 2010 across all environmental areas. No information was found here or elsewhere specifically on water-related inspections.

7.5.3 Number of infringement actions
No information found (information would be available at Länder level only).

7.5.4 Other mechanisms (in addition to inspections)
Federal law also requires facilities to undertake monitoring and self-inspection: this applies both to all emissions (section 7 sub-section 1 of the Federal Immission Control Act) and for waste water discharges and installations (section 61 of the Water Act).

For IPPC facilities, audits may also be encouraged and in some cases required.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
Sanctions for infringements of obligations include administrative actions, administrative criminal (i.e. quasi-criminal) and criminal penalties.

Administrative actions include orders by enforcement authorities. The Federal Water Act does not specify administrative actions: these are instead listed in the water acts of the Länder. The Water Acts for Hessen and Thuringia, for example, provide general statement in this area: section 84 of the Water Act of Thuringia states that the authorities shall take the necessary measures to avert danger to the public, individuals and the water.

The Federal Immissions Act, which applies for IPPC permits, has a detailed list of possible administrative actions: the latter provides e.g. administrative measures such as to stop the operation of an installation if the operator does not comply with the installation related requirements; to close or remove an installation if the installation has been constructed or significantly changed without a permit; the withdrawal of a permit e.g. if the operator does not comply with requirements set in the permit.
The Federal Water Act specifies that administrative criminal fines of up to 50,000 Euros can be imposed for violations of the Act (a detailed list of violations is provided in §103 of the Federal Water Act).

Criminal penalties are established in the Federal Criminal Code: these provide for fines and imprisonment.

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system
No information found on strengths and weaknesses in the enforcement system (can vary across Länder)

7.7.1 Influence of the WFD and the RBMPs on enforcement
The RBMPs have not strengthened enforcement. German water legislation was rather detailed before the WFD and in principle has not changed with regard to permits and licences, Nonetheless, the first implementation cycle is ongoing and first experiences will be gathered only after the POMs will have been implemented.
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Ordinance on the Distribution of Competences in the Field of Environmental Protection of 11 December 2007 – Zuständigkeitsverordnung Umweltschutz NRW, Thuringian

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WISE SUMMARY REPORT (ALL GERMAN RBD)
Member State Governance fact sheet: DENMARK

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1 Administrative arrangements

1.1 Water authorities

Denmark is divided into 4 River Basin District (RBD), but the management plans have been elaborated for 23 sub-basins. The main competent authority (Table 1) for developing River Basin Management Plans (RBMP's) is the Danish Nature Agency, under the Ministry of Environment. The Danish Nature Agency is in charge of the work implementing the Water Framework Directive (WFD) and preparing the RBMP. Regional offices of the Nature Agency have been responsible for the elaboration of the sub-plans (e.g. the "publisher" of the sub-plan is Ministry of Environment, but the contact address for the Randers Fjord sub-plan is the regional office).

The competent authority develops RBMP and accompanying Programmes of Measures (PoM). The Danish Nature Agency undertakes the practical task of preparing water management plans and programs. Based on RBMP municipalities shall develop local action plans for how water management plans and programs should be implemented locally.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of Environment (Nature Agency)</td>
<td>Municipalities</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Environment (Nature Agency)</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Ministry of Environment (Nature Agency)</td>
<td>Aarhus University</td>
</tr>
</tbody>
</table>

41 From the start of the WFD process, the regional authorities (counties) were designated as the competent authority. From 2007, a reform of the Danish administrative system meant that the counties were closed down and the main responsibilities for environmental protection were placed at the national level (MoE) - main planning activities and monitoring - and by the municipalities.

42 Environmental Objectives Act, Section 2(3).
1.1.1 Division of responsibilities
The Danish Nature Agency, under the Ministry of Environment, are responsible for implementing the requirements of the directive for all water categories, e.g. groundwater, lakes, rivers, transitional etc..

No differences exist in authorities connected to water categories, but for the implementation of measures are different authorities responsible. The main authorities for implementing the measures are the municipalities and the Ministry of Environment.

1.1.2 Authorities involved in preparing and approving the RBMPs
The authority involved in preparing and approving the RBMP is the Danish Nature Agency, under the Ministry of Environment.

On the basis that DK is divided into 4 RBD, the management plans have been elaborated for 23 sub-basins. Responsible for these elaboration of sub-plans have been regional offices of the Danish Nature Agency, under the Ministry of Environment.

1.1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

A catalogue of measures for agriculture, groundwater, restoration of rivers and lakes (including HyMo) as well as point sources has been produced by the Danish Nature Agency, under the Ministry of Environment, for the preparation of the PoM, which is incorporated in the sub-plans.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for monitoring
The authority that requests monitoring is the Danish Nature Agency, under the Ministry of Environment.
Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service. The Danish Nature Agency, under Ministry of Environment, is responsible for all of the operational and investigative monitoring and shares the responsibility of surveillance monitoring with Aarhus University, who are responsible for open sea marine and air monitoring.

Because two authorities are responsible for surveillance monitoring, there is a requirement for coordination. The monitoring set up is coordinated between research institutes (university and geological surveys), who are responsible for e.g. methods, data handling, quality assurance and national reporting and the Nature Agency, who is responsible for the practical sampling, analysis etc. A fixed and agreed set up for data exchange exists between partners.

Different authorities are responsible for monitoring the different water categories. The monitoring of the general state of the ground water (quality and quantity) is a national responsibility and a part of the national monitoring programme NOVANA. Water works are responsible for the control/monitoring of the drinking water quality.

### 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and has to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

#### 3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named below (table 2)

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td></td>
<td>Operational: Municipalities or private/public companies</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td></td>
<td>Partly ministry of agriculture</td>
</tr>
<tr>
<td></td>
<td>Operational: Municipalities and Ministry of Agriculture</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td></td>
<td>Operational: Municipalities or private/public companies</td>
</tr>
</tbody>
</table>

43 The question is answered on the basis that ‘competent authority’ refers to the authority responsible for the implementation of the acquis into Danish regulation - not the authority responsible for the actual implementation, e.g. issuing permits for WWTP.
### Directive / Policy

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td></td>
<td>Operational: Municipalities or private/public companies</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td></td>
<td>Ministry of Transport: Danish Coastal Authority</td>
</tr>
<tr>
<td></td>
<td>Not yet defined</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td></td>
<td>Operational: Municipalities or Nature agency</td>
</tr>
<tr>
<td>Climate</td>
<td>Ministry of Climate and Energy:</td>
</tr>
<tr>
<td></td>
<td>The ministry is responsible for national and international efforts to prevent climate change, as well as energy issues, national geological surveys in Denmark and Greenland, and meteorology.</td>
</tr>
</tbody>
</table>

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (table 3).

**Table 3: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Danish Nature Agency are responsible for some parts of the agricultural regulation for e.g. the approval of applications (Environmental Protection Agency). Although, much of specific regulations are carried out by the Ministry of Agriculture. DEPA is responsible for legislation for environmental regulation of agriculture. Municipalities are responsible for permits and inspection of about 1280 IPPC agriculture enterprises, 1200 non-IPPC agriculture enterprises requiring environmental permits and about 40 000 small agriculture enterprises. Furthermore, Municipalities are important players in the implementation of certain measures like wet lands and as a controlling authority of the national legislation. The Ministry of Agriculture is not directly involved in the development/approval of the RBMP’s, but an important player in the preparation. Furthermore it is the controlling authority for certain parts of regulations of agriculture.</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>The Ministry of Environment is responsible for national legislation regarding waste and drinking water. Municipalities responsible for permitting, control of water quality and</td>
</tr>
</tbody>
</table>
### Driver / Sector | Responsible Authority
--- | ---

**Waste water**
Additionally, the Ministry controls the discharges of wastewater. Municipalities and decentralised units of DEPA responsible for permits and requirements as part of the general environmental permit to the specific industrial enterprise in question.

**Industry**

**IPPC**
The Ministry of Environment is responsible for national legislation as well as permits, controls etc. for 260 enterprises (large, complex) Municipalities are responsible for permits, inspection, control etc. for the 279 IPPC enterprises. Decentralised units of DEPA are responsible authorities for 209 IPPC enterprises regarding permits, controls etc.

**NON IPPC**
The Ministry of Environment is the competent authority for national legislation.
Municipalities and decentralised units of DEPA responsible for permits, inspection, control etc.
Decentralised units of DEPA are the responsible authorities for 34 non-IPPC enterprises. Municipalities are the responsible authorities for 5240 non-IPPC enterprises requiring environmental permits and about 18 000 other smaller enterprises.

The sectors energy, transport and mining are not an issue in Denmark.

### 4 Participation
The role of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and has to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation
The participation of all interested parties (the public, including users such as industry and agriculture in production) in the review and updating of the RBMP is provided for in Chapter 10 of the Environmental Objectives Act. Chapter 10 (Section 27a -31) provides also for the formal mechanisms for consultation/involvement of stakeholders (local authorities, users – industry, agriculture) in the preparation and adoption/review as well as the implementation of the plan.

Pursuant to Section 27a, prior to the preparation and review of the RBMP, the minister for the environment shall invite stakeholders and interested parties (other authorities, including local authorities, users – agriculture and industry, organisations and private
individuals) to come up with ideas and suggestions on how the quality of Danish waters can be ensured. The material shall be published and made available for comments, including detailed account of the consultation process by 22 June 2007. The published material shall be sent to national, regional and local authorities whose interest is affected. The consultations process shall be minimum six months.

Furthermore the Minister of Environment shall forward the proposals received and other submissions to the regional council, who shall coordinate proposals and other submissions from local councils in the region. The coordinated proposals shall, pursuant to paragraph 2, be submitted to the minister within 8 weeks of receipt.

Once a proposal for the RBMP, in accordance with section 28 paragraph. 1, No. 5, has been prepared, the Minister of Environment shall submit the proposal to relevant national, regional and municipal authorities. They may raise objections to the proposals for the prioritisation of the measures in the overall PoM. The Minister shall set a deadline for submission of objections. The Minister adopts a draft RBMP based on Section paragraph 1 and 2.

The final RBMPs together with the PoM and guidelines for challenging the measures (complaint) deadline shall be provided to the public. It is also sent to the national, regional and local authorities whose interest is affected.

The public consultation of the RBMP for the first management cycle resulted in more than 4000 comments. The consultation responses came from national authorities, regions, municipalities, interest groups, business organisations, landowners and other private stakeholders. The Nature agency’s review of the comments led to a number of changes to the RBMP. The Nature Agency then resubmitted the revised draft RBMP for a supplementary (second round of) public consultation. For more information about the consultation process and its results see:

http://www.naturstyrelsen.dk/Vandet/Vandplaner/Om_vandplanerne/Proces-milepael/Hoering-vandplaner/

5  Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD.

6  Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal status of the RMBP is regulated in the Environmental Objective Act.

In accordance with the Environmental Objectives Act, Section 4, the RBMP shall contain environmental objectives for all waters in a river basin district, a comprehensive account of status of the bodies of water including information on where objectives are not met, and a programme of measures setting out the necessary measures and requirements to meet the objectives. The information and elements to be included in the RBMP is further
detailed in Annex 2 to the Environmental Objectives Act, which transposes Annex VII of the WFD. Denmark has been divided into 4 river basin district and 23 sub-basins.

The environmental objective and programs of measures set out in the first set of RBMP were approved by the Minister for the Environment by Ministerial Order No 1208 of 15 December 2011 on the entry into force of environmental objectives, programmes of measures and priorities, etc. in the RBMP for planning period 2010-2015. They entered into force on 22 December 2011.

The mechanisms for consultation/involvement of stakeholders (local authorities, users – industry, agriculture) apply also to the second and third river basin management cycles (Environmental Objectives Act, Section 27a – 31).

6.1.1 Legal effect
The RBMP is a planning document of a rank similar to ministerial orders (decrees), i.e. in the hierarchy of legal acts it falls below acts. It cannot contradict laws and regulations. The river basin management plan is, pursuant to Section 3 paragraph 2 of the Environmental Objectives Act, binding for national, regional and local authorities. The RBMP therefore stands above water-related administrative decisions to be taken by the national, regional and local authorities. It is not binding on individual persons i.e. operators, water users, etc.

The binding effect implies that the authorities shall take plan into account and ensure compliance with the RBMP objectives and provisions when exercise their powers. For example the local authorities discharge permits shall ensure that there shall not be permitted discharges that would be incompatible with the environmental objectives set in accordance with chapter 6 of the Environment Objective Act or which is otherwise incompatible with the PoM.

The environmental objectives do not have a different legal status compared to the rest of the RBMP. The obligation of compatibility applies to the RBMP in its entirety.

6.1.2 Legal status in relation to individual decisions
As mentioned above, river basin management plan is binding for national, regional and local authorities pursuant to the Environmental Objectives Act. The Environment Objective Act therefore requires that administrative decisions in the field of water must be compatible or made compatible with the provisions of the RBMP in particular the environmental objectives and the PoM. Such decisions would include permitting for industrial installations, as well as authorisation for abstraction for agriculture. It appears that there is no explicit provision requiring review of the existing permit/concession in line with environmental objectives and programme of measures. However given the binding nature of the RBMP, it may trigger review of existing permits. However, there is no timeline specified making compatible the individual permitting decisions.

The following subsections describe how the RBMP is included in the permitting decision process: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations:** There is only one important hydropower installation in Denmark, Tangeværket by Bjerringbro, its concession was given by Act No 184 from 1918 (Lov om Udnyttelse af Vandkraften i Gudenaa). The concession has subsequently been renewed several times most recently by Act No 1533 of 19 December 2007 (Act on
amendment on the Tangeværket Act). The renewal of the concession was given for 6 years, to 8 January 2014 to ensure coordination and compatibility with the RBMP. Pursuant to the draft Act, the renewal of the concession until 8 January 2014 would be given so as to provide for three years for the implementation of water planning (RBMP) and a further a three year period for a possible project preparation.

**Abstraction for agriculture:** Authorisations for abstraction for agriculture and livestock production are granted by the local council pursuant to Act No 1486 of 04 December 2009, Section 11 and 12. Pursuant to Section 23 local council shall when assessing an application for approval under § 11 or § 12 safeguard inter alia protection of soil, groundwater, surface water and nature with its populations of wild plants and animals and their habitats.

As mentioned above, river basin management plan is binding for national, regional and local authorities pursuant to the Environmental Objectives Act. An authorisation for abstraction may therefore not be granted if it would be incompatible with the environmental objectives or the PoM.

It is not entirely clear to what extent a single authorisation is to be modified, if necessary, to be made compatible with the new provisions of the RBMP.

**IPPC and other industrial installations:** An authorisation for an IPPC installation or for discharges from other installations would be an administrative decision which must be compatible with the RBMP in the sense of Section 3 paragraph 2 of Environmental Objectives Act. The Environmental Protection Act Section 41(a) and 41(b) provide the basis for review of existing permits to ensure compatibility with the RBMP.

### 6.2 Relationship with other sectoral policy plans

The RBMP – as well as the local action plan - has been made binding in relation to a range of different planning and land use measures pursuant an amendment to the Environmental Objectives Act (L 2003 1151). L 2003 1151 implemented changes to the Water Act, the Environmental Protection Act, the Soil Contamination Act and the Planning Act. The national, regional and local authorities are required to take the RBMP, including the environmental objectives and PoM into account and ensure that compatibility with the plan in their planning pursuant to other legislation, including land use/spatial plans. The RBMP as well as the local action plan are binding for regional planning.

Specifically concerning flood risk management plans. Act No 1505 of 27 December 2009 on the assessment and management of flood risks from rivers and lakes as amended by Act No 484 of 11 May 2010 (hereinafter the Floods Risk Act). Section 6 (1) call on the local council to prepare the risk management for each of the identified risk areas. Pursuant to Section 6(2), the first flood risk management plans shall be coordinated with the river basin management plans prepared pursuant to the Environmental Objectives Act Section 3. There is no other specific provision.
7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below (table 4).

Table 4: Permits and the Competent Authorities

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstraction</td>
<td>Municipalities</td>
</tr>
<tr>
<td>Impoundment</td>
<td>Municipalities (but probably not relevant regarding new impoundments)</td>
</tr>
<tr>
<td>Point source discharge</td>
<td>Municipalities (for a number of larger enterprises - MoE, Environmental Protection Agency)</td>
</tr>
<tr>
<td>Diffuse</td>
<td>Mainly MoE, as most measures are implemented through common (national) regulation. For some measures also municipalities (e.g. wetlands)</td>
</tr>
<tr>
<td>HyMo alternations</td>
<td>Municipalities</td>
</tr>
</tbody>
</table>

Permits (licences) are not coordinated by the main WFD competent authority.

All permits are public documents and can be accessed, but to the knowledge of the assessor, permits are not collected in an inventory, in general or on RBD level. According to Danish law (e.g. the Environmental Law) decisions can be made public through announcements.

Permits etc from EPA are announced under:
http://www.mst.dk/Virksomhed_og_myndighed/Annoncering_decentral_administration/default.htm

Permits etc. issued by the municipalities are probably only accessible on the home page of each of the 98 municipalities, for e.g.: http://www.norddjurs.dk/Afg%c3%b8relser.5971.aspx or http://www.silkeborgkommune.dk/borger/natur+og+milj%c3%b8/annonceringen.

The Danish Nature Agency has databases with information on discharges from more than 30 PE municipal wastewater treatment plants, industries, stormwater, and from scattered settlements. Information regarding municipal wastewater treatment plants includes info on requirements. Info covers about 99% of total wastewater discharge in DK.
There is an inventory of abstraction permits in each municipality.

For a number of larger enterprises, where there are point source discharges, the, Environmental Protection Agency, under the Ministry of Environment is the responsible authority.

### 7.2 Permit applications

In this section the process for application for an environmental permit will be described. As a first step the permit requesting organisation has to submit completed permit application form. At this stage the regulatory authority (RA) calls the application 'duly made' and if any information is missing, the RA requests this from the applicant. Afterwards the RA is the determining the determination. The RA assesses the application and decides whether they permit or not. Furthermore, the RA notifies applicant of how long the process will take and may request further information.

In step four the RA consults on the more complex applications within usually 30 days of the duly made date. The time taken for the authority to decide on an application varies very much between categories and is being discussed very much in DK. For agriculture, the time for issuing a permit was, in December 2011, nearly a year and for larger industrial activities, where the DEPA is the authority, the time for deciding on an application varies between ½ and 1 year.

Details of the application are placed on the RA's webpage and may also be published in a local newspaper. Any comments received are considered as part of the application.

For complex applications, the RA allows the applicant an opportunity to comment on the draft permit or notice before it is completed. But normally, a draft of the application is sent to the applicant for comments.

In case the application is refused, the RA discusses the reason with the applicant and provides a notice before it is completed. When the document is issued, the RA explains the applicant's rights of appeal against the decision.

The right to appeal and the time limit for appeal (normally 4 weeks) is always noted in the decision. The decision is also normally publically announced, so individuals or organisations (NGO's) are given the opportunity to appeal. The right to appeal is normally restricted to (defined in detail in the individual laws)

- the applicant
- anyone with a significant individual interest in the decision
- some organisations
- some NGO's with the main purpose to protect the environment (both the mother organisation and the local departments).

The timeframe for deciding on an appeal by the appeal "court" may be up to 1 year.

The process applies for all water types and scales.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.
As previously mentioned, large (complex) industries are dealt with on the national level by DEPA - part of the Ministry of Environment, which is responsible for RBMP. But most industrial waste water is treated by common treatment plants operated by municipalities or public companies - so the requirement for the discharge is set for the common treatment plant and not for the particular industrial plant.

IPPC enterprises are being dealt with by municipalities or decentralised units of DEPA depending on size and complexity.

A significant number of industrial enterprises discharge wastewater directly to surface water. Permits and requirements are granted by the relevant authority (municipality or decentralised unit of DEPA) as part of the environmental permitting of the specific industrial enterprise in question.

### 7.3 Enforcement of permits: authorities

Mainly the Danish Environmental Protection Agency (DEPA) and the Danish Nature Agency, under the Ministry of Environment (MoE) are the competent authorities in enforcement of permits. Until now, the Ministry of Environment has regional offices (3 concerning industry, 7 concerning municipal waste water). A re-organisation of the Ministry of Environment has been announced recently, but no details concerning enforcement are available.

Additionally, 98 municipalities, which are defined by certain geographical areas, are also responsible authorities.

There are separate authorities responsible for enforcement of different economic sectors:

**Industry:** The responsibility is divided between Ministry of Environment and the municipalities (Ministry of Environment responsible for a number of larger entities, municipalities for the remaining entities). IPPC entities divided in the same way. It should be noted that most industrial entities are connected to a municipal WWTP, meaning that they do not have a separate discharge point. So "water related" enforcement is in most cases not relevant for industrial facilities, but should be dealt with in connection to municipal waste water treatment plants. For direct discharges the authority granting permits and setting requirements for the discharge is responsible for inspection and enforcement.

**Municipal waste water treatment:** It is the Ministry of Environment.

**Agriculture, Gravel extraction, Abstraction, HyMo modifications & Impoundment (if relevant):** In these different sectors are the municipalities the competent authorities on permits.

**Hydropower:** The three Environmental government centres run by the Danish EPA deal with the permits where more complex issues are resolved.

Local authorities – municipalities (98 of them in total) also deal with permits. The division between the environmental government centres and the municipalities is not clear, but in general the centres deal with more complex issues.

There are separate authorities responsible for the enforcement of different types of water-related permits.

Mining is not relevant for Denmark.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
Legislation is implemented through the instruments of statutory orders. In the field of inspections, for example, there is an Order on reporting for environmental inspection and environmental permits (Bekendtgørelse om beretninger om miljøtilsyn og miljøgodkendelser m.v., BEK nr. 99 af 11/02/11),

Data from the discharge control is provided from all involved authorities and compiled in a yearly national report. This data basis is also available for the water authorities for the elaboration of the River Basin Management plans.

A report on environmental inspection and enforcement has been elaborated for 2009, where all parties (Ministry of Environment and the municipalities) deliver information.

Direct emissions are regulated together with the emissions permits, while emissions to sewers are regulated in the sewer license. A split responsibility between the EPA and municipalities can arise in cases where there are emissions to sewers (industrial emissions). In such cases, the permitting authorities (the Danish EPA) should coordinate with the municipal authorities for discharges to sewers in case the industrial side is involved.

Overall, there is an obligation for the EPA and the local authority to coordinate their work (described in the regulations and guidelines). Any company can apply to have their license transferred from the local authority to the EPA, then the EPA deals with enforcement (the Environmental centres, there are three currently, but there will be only two in three years).

7.4.2 Between enforcement and water management authorities
It is unclear whether the enforcement authorities and water management authorities separate entities. In general, there is an obligation to coordinate set in regulations. There are a number of coordination activities between the Ministry of Environment, which is the water management authority, and municipalities, the main authorities for enforcement. Information was not found, however, on coordination specifically related to enforcement related to water management between the two authorities.

There is, however, some data exchange. For the most recent report on environmental inspections, covering 2009, both the municipalities and the Ministry of Environment, provided information about numbers of inspection, resources used etc.

Data from on discharge control (both common WWTP’s and individual discharges from industry) is provided by all involved authorities and compiled in a yearly national report. This data basis is also available for the water authorities for the elaboration of the River Basin Management plans.
7.5 Enforcement actions

7.5.1 Number of inspectors
In total, approx. 450 FTE inspectors in 2009 (in the municipalities) carried out environmental inspections related to all kind of activities related to industry and agriculture. The number has decreased from over 600 in 2004.

Probably small share of the 450 FTE inspectors work are used for water issues related to permits. However, further details are not available.

The total number of FTE inspectors (in the municipalities) for industrial facilities was approx. 150 in 2009 (app. 1/3 of all FTE inspectors), plus approx. 30 FTE inspectors at the national level. Separate information for water-related issues is not available. As most of the industries are connected to a common waste water treatment plant, it is likely that the share of the inspection related to water issues is quite low.

The total number of FTE inspectors in 2009 focusing on agricultural was approx. 75 (in the municipalities). It should be noted, that part of the inspection activities are related to general regulations, and others to individual permits. It is not possible to divide between the two areas.

Additionally, an unknown number of FTE inspectors under the Ministry of Agriculture work on controls (both central and in the field) of the fertilizers and related issues.

Information regarding Hydroelectricity and municipal wastewater treatment was not found.

7.5.2 Number of inspections
Information is available for industrial and agricultural inspections (see below). Specific information is not available on inspections related to water issues.

The total number of inspections related to industry was in 2009 app. 2700. Information is not available on water-related inspections. Commonly, however, an integrated inspection is carried out on all relevant environmental aspects of an industrial activity. In 2010, 15 000 inspections at 210 000 enterprises (industry/agriculture) were done, but there is no information available on how many of these were water-related.

The total number of inspections (by municipalities) of agricultural activities in 2009 was approx. 8200. Separate information is not available on water related inspections. Normally, an integrated inspection is carried out covering all relevant environmental aspects of the particular agricultural activity. In 2010: 7600 inspections of industry and 7400 inspections of agriculture took place.

As previously noted, part of the inspections/control (both municipalities and the Ministry of Agriculture) is related to the general regulation, and part focus on permit requirements.

7.5.3 Number of infringement actions
Information is available on infringements related to industry and agriculture (see below); the number of infringement is not divided into water related and non-water related cases.
The total number of actions in 2009 was approx. 2000. Nearly every 3 out of 4 inspections are followed by some kind of action.

For industry 8000 actions undertaken by municipalities and 300 actions undertaken by decentralised units of DEPA in 2010. These actions are not only related to water but also to general regulation.

The total number of actions related to agriculture was in 2009 app. 50% of the total number of inspections. These actions are not only related to permits, but also to the general regulation.

In 2010 were 5000 actions related to agriculture. These actions are not only related to permits, but also to the general regulation.

Further information is available under: www.tilsynsdatabasen.dk.

7.5.4 Other mechanisms (in addition to inspections)
No information found.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
The Environmental Protection Agency has produced guidelines for the environmental authorities, providing instructions on how the general provisions concerning inspection in the Danish Environmental Protection Act can be put into practice (DEPA webpage). For example, there are guidelines on environmental inspection of industrial enterprises, enforcement guidelines and guidelines regarding differentiated environmental inspection. These guidelines are available in Danish through the publication database on: www.mst.dk.

Sanctions in Denmark are divided into 5 categories of increasing severity (it’s an enforcement chain, though it’s possible to jump between the steps): Recommendation, Injunction, Order, Ban of certain or all activities and Handing over the case to the police.

Recommendation and Injunction represent about 80-90% of the total number of actions (based only on part of the municipalities)

7.7 Strengths, weaknesses and changes to the enforcement system
No comments received on strengths and weaknesses of the system of inspections and enforcements and no information was found on influence of the WFD and the RBMP’s on enforcement.
8 References

The Danish transposing measures for the Water Framework Directives provisions on RBMP and PoM can be found at “retsinformation”, the website containing all Danish legislation. For the Environmental Objectives Act No 932 of 24 September 2009 including the subsequent amendments see: https://www.retsinformation.dk/Forms/R0710.aspx?id=127102. The Environmental Objectives Act provides the overall framework for the protection of surface water and ground water. For the supplementing Ministerial Orders, see: https://www.retsinformation.dk/Forms/R0910.aspx?id=127102&rg=8. Those particular relevant for RBMP including PoMs are:

- Ministerial Order No 863 of 28 June 2010 amending Annex 2 to the Environmental objectives Act concerning the content of the river basin management plans and the content of the programme of measures (MO 2010:863).
- Ministerial Order No 1433 of 6 December 2009 on environmental objectives for water course, lakes, coastal water and groundwater (MO 2009-1433) which transposes parts of the Water Framework Directive, in particular concerning the environmental objective for water course, lakes, coastal water and groundwater including requirement for good chemical status, including some of the key definitions set out in Directive 2000/60/EC
- Ministerial Order No 297 of 25 March 2010 on cooperation between Denmark and Germany on protection of surface water and groundwater in the international river basin
- Ministerial Order No 39 of 19 January 2011 on preparation of economic analysis of water use
- Ministerial Order No 1219 of 15 December 2011 on the local council’s water action plans
- Ministerial Order No 1411 of 08 December 2010 on delegation of tasks and powers of Nature Agency
- Ministerial Order No 1208 of 15 December 2011 on the entry into force of environmental objectives, programmes of measures and priorities, etc. in the RBMP for planning period 2010-2015.

Other pieces of legislation reviewed for this note includes:

- Act No 1505 of 27 December 2009 on the assessment and management of flood risks from rivers and lakes as amended by Act No 484 of 11 May 2010, Section 23 (hereinafter the Floods Risk Act)

Information on RBMP, including procedures for approval and public information and consultation processes in the production of the river basin management plans is available (in Danish) on the website of the Danish Ministry of Environment under the Danish Nature Agency (Naturstyrelsen): http://www.naturstyrelsen.dk/Vandet/Vandplaner/. The river basin management plans
(RBMP), including their programme of measures (PoM), covering the four Danish river basin districts can also be found on the website of the Danish Nature Agency: http://www.naturstyrelsen.dk/Vandet/Vandplaner/Se_vandplanerne/.

Overall, information on inspections undertaken by municipalities and DEPA is available (in Danish) from www.tilsynsdatabasen.dk

Bekendtgørelse om ændring af bekendtgørelse om miljøgodkendelse og samtidig sagsbehandling af ferskvandsdambrug (Order amending order on environmental permitting and administration of freshwater fish farms)

Env. inspection 2009
Forslag til Lov om Randzoner (draft Law on buffer strips)
Gødskningsloven (Law on application of fertilisers)
Home page for the appeal "court" (Natur- og miljoeklagenaevnet)
Home page of the MoE (DEPA) and agencies.
Home page of the nature agency
Husdyrgodkendelsesloven (Law on approval of life stock)
Lov om Jordbrugets anvendelse af gødning og om plantedække (Law on the application of fertilisers and plant cover)
Law on water courses(Vandløbsloven)
Miljøbeskyttelsesloven (Environment Protection law)
Miljøemaalsloven (Danish regulation)
MILJØTILSYN 2009 (ENV. INSPECTION 2009)(REPORT IN DANISH)
MoE: Catalogue of measures
http://www.mst.dk/English/Industry/environmental_inspection/danish_regulations/

National monitoring programme for nature, air and water NOVANA 2011-15
National reporting of NOVANA (DCE report no. 8)
Order concerning Waste Water discharges (Spildevandsbekendtgørelsen)
Order of Environmental Permitting (bekendtgørelse om godkendelse af listevirksomhed, BEK nr 486 af 25/05/2012)
Order on reporting for environmental inspection and environmental permits (Bekendtgørelse om beretninger om miljøtilsyn og miljøgodkendelser m.v., BEK nr. 99 af 11/02/11),
RBMP for Randers Fjord
Vandforsyningsloven (Law on water supply)
Vandløbsloven (Law on streams, rivers and lakes)
Vejledning fra Miljøstyrelsen, 6/2005 (Guideline from DEPA)
Virkemiddelkatalog (Catalogue of measures)
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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of the Environment</td>
<td>Water Management Commission, National and River Basin working groups</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of the Environment</td>
<td>Environmental Board, Estonian Environment Information Centre, scientific and research organisations, Ministry of Social Affairs</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Ministry of the Environment</td>
<td>Environmental Inspectorate</td>
</tr>
<tr>
<td>Permitting</td>
<td>Environmental Board, Ministry of the Environment</td>
<td>Environmental Board, local municipalities, Health Board</td>
</tr>
<tr>
<td>Enforcement</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.

The main competent authority for implementing WFD in Estonia is the Ministry of the Environment. For practical implementation also other institutions are involved. The Ministry of the Environment acts as a coordinating body while responsibilities and competence in specific issues is also on other relevant institutions as well.
There have been no changes in administrative arrangements since the publication of the RBMP.

1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

Ministry of the Environment is issuing permits for only certain activities (extraction of sand, dumping) that take place in coastal waters and sea, approves the available groundwater resources and sets the use limits for groundwater aquifers.

The Environmental Board is issuing permits which enable to implement all other requirements, such as pollution control measures, water abstraction etc. There is no differentiation based on water categories.

1.2 Authorities involved in preparing and approving the RBMPs

In Estonia the Ministry of the Environment is responsible for preparing the RBMPs. RBMPs have to be approved by the Government of the Republic of Estonia, relevant ministries, by the municipalities (local communities) and by county governments.

Coordination mechanisms to deal with multiple authorities:

The Ministry of the Environment acts as a coordinating body involving other relevant authorities in the process of preparation or implementation of the RBMPs.

The Ministry of the Environment has established a water management commission, which deals with preparation and implementation of the RBMPs. This commission consists of appointed representatives of other authorities, research institutions and some stakeholders. The tasks and the list of members of the commission have been established by a ministerial regulation.

In river basin level there are three working groups each for one river basin to support the establishment and revision of river basin management plan and coordinate the implementation of river basin management plans.

In addition, the Ministry of the Environment had established a national level working group on water management with the main aim to consult and support the establishment of the river basin management plans. This group carried out its tasks from 2006 until the official approval of the river basin management plans. The group represented the main state authorities involved in the preparation process, but also non-governmental organisations, such as the Estonian Water Association, representing both private persons and enterprises, and also the Tallinn University of Technology was represented on behalf of scientific institutions.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.
2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.

Estonian Water Act states that river basin water monitoring is carried out according to the Environmental Monitoring Act.

Requirements regarding river basin water monitoring programmes are set by the regulation of Minister of the Environment "Requirements for river basin water monitoring programmes".

The Ministry of the Environment is responsible for drafting the monitoring plans – they are the organiser and general coordinator of the state environmental monitoring. Ministry is responsible for elaborating and developing the monitoring programmes. This is done in cooperation with other environmental institutions (mainly Environmental Board, Estonian Environment Information Centre), scientific and research organisations (these are in most cases also responsible implementers of the monitoring programmes – University of Tartu - Marine Institute, Tallinn University of Technology - Department of Environmental Engineering, Centre for Limnology, Estonian Environmental Research Centre, Ecological Survey of Estonia etc.) and other related institutions (i.e. Ministry of Social Affairs regarding bathing and drinking water quality monitoring needs).

The river basin monitoring programs are implemented in frames and as part of the overall national environmental monitoring program. In order to implement the national monitoring program the Ministry of the Environment signs contracts with scientific institutions, environmental laboratories and other institutions with relevant competence and capacity to collect the samples and make the analyses, all the information is reported by the contractors back to the Ministry and to the Environmental Information Centre who keeps the data in the environmental register.


Monitoring results are published in the Environmental Register: http://register.keskkonnainfo.ee/envreg/main#HTTPUtldt8h8sMdpeqNdT9PbWXaRrwLwoZ.

Data is collected and stored by Estonian Environment Information Centre (National Focal Point for data transmittal to EU institutions) and managing Environmental Register.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

Ministry of the Environment is responsible for all three types of monitoring (surveillance, operational and investigative). They are confirming annual state environmental monitoring budget, sub-programmes (including river basin water monitoring) and monitoring assignments, also they are the ones making contracts and financial payments.
Ministry of the Environment is responsible for monitoring in all water categories (rivers, lakes, transitional, coastal, groundwater). They are making contracts and financial payments for practical works.

3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

Sectors such as agriculture and industry have a direct impact on water. Therefore, this section looks at several areas in which water authorities work with authorities in other areas.

The responsible authorities for each directive / policy are named in the table below (Table 2).

Table 2: Summary of responsible authorities for different directives & policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>Nitrate Directive</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Ministry of Social Affairs and Health Board</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of Social Affairs and Health Board</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>Climate</td>
<td>Ministry of the Environment</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. Coordination is done via water management commission and working groups in river basins where relevant institutions are involved.

3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 3).
Table 3: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Agriculture and Agricultural Board, involved via water management commission and river basin working groups</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>Ministry of Social Affairs and Health Board, involved via Committee for organisation of water management and working groups for sub-districts</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td></td>
<td>Ministry of the Environment and municipalities, involved via Committee for organisation of water management and working groups for sub-districts</td>
</tr>
<tr>
<td>Energy</td>
<td>Ministry of Economic Affairs and Communications, representative of ministry is in committee but not from respective department</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Economic Affairs and Communications, representative of ministry is in committee but not from respective department</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>Environmental Board (permitting), involved via Committee for organisation of water management and working groups for sub-districts</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>Ministry of Economic Affairs and Communications, representative of ministry is in committee but not from respective department</td>
</tr>
<tr>
<td>Mining</td>
<td>Ministry of the Environment and Environmental Board (permitting), involved via Committee for organisation of water management and working groups for sub-districts</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. Authorities coordinate using usual working relations and the water management commission. As Ministry of the Environment is responsible for implementing WFD requirements in Estonia then official statements on policy are coming from their side.

4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation

According to Article 317 para 4 of the Water Act the RBMP (veemajanduskava) is proposed by the Minister of Environment and approved by the Government of the
Republic. The Water Act does not explicitly set out the form of the approval. In practice, the government has approved the plans by an order.

In addition to the three RBMPs approved in 2010 a number of management plans exist on sub-basin districts (hereinafter the S-RBMP). These plans predate the three RBMPs: the plans were approved by the directives of the Minister of Environment in time period 2002-2008. The new RBMPs are based on these plans. The effective law at the time was somewhat ambiguous stipulating that measures for protection and use of water are set out either in the RMBPs or S-RBMPs. In practice, S-RBMPs existed until 2010 and there are no intentions to update them although the possibility for that exists. The law in force follows the logic of the Water Framework Directive: the RMBPs are obligatory but specific programmes or plans may be prepared to set out the details of the RMBPs on certain aspects of protection and use of water, including plans for sub-basin districts. These plans have to be approved by the government or a minister authorized by the government (Article 319 of the Water Act).

In addition to the RBMPs the Water Act requires the Programme of Measures (meetmeprogramm, hereinafter the PoM) and the Action Plan for Implementation of the Programme of Measures (meetmeprogrammi rakendamise tegevuskava, hereinafter the Action Plan).

The PoM has to be prepared for each river basin district. The preparation is arranged by the Ministry of Environment. The programme is approved by the Government of the Republic (Article 314 para 3 of the Water Act). In practice such programmes do not exist. The law in force at the time of adoption of the management plans did not properly transpose the requirements of the PoM set out in the Water Framework Directive. However, the law stipulated that the management plans have to set out, inter alia: a) an action plan for prevention or minimization of pollution in order to maintain the status of water as near to natural conditions as possible; b) overview of areas, where the use of water has to be restricted or prevented. In practice, the S-RBMPs set out some measures and include an Annex to the plan titled “Programme of Measures” or “Plan of Measures”. The RBMPs are less detailed: essentially the measures outlined in the RBMP are overviews of the measures of the S-RBMPs with minor updates, e.g. the estimated cost of measures has been updated.

The Action Plan for implementation of the programme of measures has to be prepared for each river basin district. The Action Plan is proposed by the Water Committee and approved by the Minister of Environment (Article 316 para 2 of the Water Act). The implementation of the PoM has to start 22 December 2012 the latest. (Article 401 para 15 of the Water Act). The Action Plans were intended to be practical detailed plans to ensure implementation of the PoMs, which were conceived as relatively abstract documents. In practice, the Action Plans do not exists yet but are currently being prepared. It is not clear what measures the plan is supposed to implement as the PoMs do not exist: apparently the Action Plans have to implement the measures set out in the RBMPs.
5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

Ministry of the Environment is a competent authority. However, in order to implement RBMPs committee for organising water management (November 2011) and working groups for sub-districts (October 2010) were formed.

Since new authorities have been created, there have been no significant changes in existing authorities as a result of the WFD.

Committee and working groups include representatives from different institutions – this means that different competencies are represented in them which leads to better cooperation and result.
### 5.2 Organisation structure

The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

<table>
<thead>
<tr>
<th>Members of RBMP authorities</th>
<th>Preparation and implementation of RBMPs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authority</td>
<td>Water management commission</td>
</tr>
<tr>
<td>Ministry of the Environment (CA)</td>
<td>Responsible authority</td>
</tr>
<tr>
<td>Environmental Board</td>
<td>Public involvement</td>
</tr>
<tr>
<td>Ministry of Social Affairs</td>
<td>Drinking water</td>
</tr>
<tr>
<td>Ministry of Agriculture</td>
<td>Agriculture</td>
</tr>
<tr>
<td>Ministry of Economic Affairs and Communication</td>
<td>Energy, transport</td>
</tr>
<tr>
<td>Health Board</td>
<td>Drinking water</td>
</tr>
<tr>
<td>Agricultural Board</td>
<td>Agriculture</td>
</tr>
<tr>
<td>Municipalities</td>
<td>Involved</td>
</tr>
<tr>
<td>Estonian Environment Information Centre</td>
<td>Involved</td>
</tr>
<tr>
<td>Universities</td>
<td></td>
</tr>
<tr>
<td>Estonian Water Works Association</td>
<td>Involved</td>
</tr>
<tr>
<td>Company</td>
<td></td>
</tr>
<tr>
<td>Environmental Investment Centre</td>
<td>Involved</td>
</tr>
<tr>
<td>Environmental Inspectorate</td>
<td></td>
</tr>
<tr>
<td>Government of Estonia</td>
<td>Approving</td>
</tr>
<tr>
<td>Other stakeholders (i.e NGO, users)</td>
<td>Can participate</td>
</tr>
<tr>
<td>Water management commission</td>
<td>Involved</td>
</tr>
<tr>
<td>Working group for coordinating RBMP (for each RBD)</td>
<td>Involved</td>
</tr>
</tbody>
</table>
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The law does not explicitly set out the legal nature of the RBMP. In practice, the RBMPs, are approved in the form of an order of the government. An order of the government is a legal act of specific application. There is an increasing tendency in administrative and court practice to consider legal acts which are applicable to certain territory or which have a limited field of application to be legal acts of specific application. More precisely, such acts are considered to be general orders, i.e. administrative acts which are directed at persons determined on the basis of general characteristics. For instance, it is firmly established that comprehensive and detailed territorial plans of the local governments are general orders. In the opinion of the Estonian legal expert the RBMPs could be considered general orders provided that they are sufficiently specific to have regulative effect. However, it should be noted that the legal nature of the RBMPs is far from being clear: there is no specific court practice and the theoretical discussion on the subject is minimal. The last publicly available draft of the Special Part of Environmental Code does not provide much information as regards the legal nature of the RBMP. The explanatory letter to the draft sets out that the RBMP is addressed to the authorities and that obligations are not directly imposed on third parties by the PoM.

General orders of the central government can be issued only on the basis of and for the implementation of law, i.e. general orders cannot contradict laws. The hierarchy of legal acts of the government and that of ministers is somewhat contentious. However, the general view is that no hierarchy exists. Also, legal acts of local municipalities that concern matters of local autonomy (e.g. local drinking water supply) are on equal standing with the legal acts of the central government. (It should be noted that theoretically there cannot be conflicts between legal acts of the minister, legal acts of the government and legal acts of local municipalities because all activities of the administration have to be based on law and for the implementation of law.) Legal acts of the government are superior to legal acts of the County Governors and legal acts of local governments in matters that do not pertain to the autonomy of local governments.

It should be noted that the regulation on the RBMP was completely overhauled in 2010. Answers to the questionnaire reflect the law in force unless indicated otherwise. It should be further noted that codification of the Estonian environmental law has taken place since 2007. The General Part of Environmental Code Act was adopted in February 2011. It will come into force with the Special Part of Environmental Code. The Special Part will be adopted in 2013 according to the current plans. The regulation on the RBMPs is set out in the Special Part. The Special Part will comprehensively amend water law, including law on the RBMPs. However, the details of this reform are not known yet, that is, a draft exists but it will be probably modified extensively before it is adopted as law.

6.1.1 Legal effect

The legal framework provides formal mechanisms for consultations in preparing the RBMP but the framework is somewhat ambiguous. According to the Water Act, the Government of the Republic has to issue a regulation on the details of the procedure for the preparation of the RBMP. The regulation does not exist as of 15 February 2012. The
legal framework also provides some guidelines for consultations in regard to the preparation of the PoM. The regulation is minimal as regards consultations in preparation of the Action Plan.

Certain authorities and persons have to be involved to the preparation of the RBMP. More precisely the Water Act requires involvement of county governments and local municipalities that are situated in the river basin district and inhabitants and other interested persons. The Environmental Board has to arrange the involvement. The law does not stipulate how the Board determines, which persons are interested and does not specify how exactly the authorities and interested persons have to be involved in the preparation of the plan.

Estonia is a unitary state, which is divided into 15 counties and further divided into more than 200 municipalities. The county governors carry out state administration (i.e. they are essentially the extension of the central government) and mainly perform coordinating functions. Local governments consist of rural municipalities and cities/towns. Local governments have autonomy as regards local issues. Most of the local municipalities are very small: more than half of the municipalities have less than 2,500 inhabitants. In the general practice of involvement local municipalities often participate through nationwide associations of municipalities.

The term “interested person” is not defined in law. However, it should be noted that the Administrative Procedure Act (the APA) requires involvement of persons, whose rights or obligations are affected by the outcome of the proceedings (the so called “third persons”) to any administrative proceedings. Considering that “interested persons” have to be involved in an open procedure in addition to the persons whose rights may be affected it is clear that the term “interested persons” has to have broader meaning than “persons whose legally protected interests are affected”, at least in the meaning of the APA. In practice, every person who claims an interest can participate in a typical open procedure, i.e. there is no practice of excluding certain members of the public from open procedures on the basis that they are not interested in the meaning of the APA.

In practice, the interested parties have been involved through workgroups. That is, the Minister of the Environment has established workgroups and their membership by directives for each river basin district. The task of the workgroup is to coordinate the implementation and review of the RBMP. The workgroups consist of about 30 members and include, inter alia, the representatives of the following authorities and third persons: the Ministry of Environment, the Agricultural Board, the Health Board, county governments, local governments, producers, environmental NGOs. Other interested persons were included on the basis of their reasoned request.

It should also be noted that involvement of some of the stakeholders is ensured through the Water Management Committee. The establishment of the Committee is required by the Water Act to ensure integration of use and protection of water with other activities. The Committee is established by the directive of the Minister of Environment. The required membership composition of the Committee is not stipulated in law. In practice, the Committee consists of representatives of various institutions including the Ministry of Environment, the Ministry of Agriculture, the Ministry of Social Affairs, the Tallinn University of Technology and the Estonian Water Works Association. The Committee has an important role in preparing the RBMPs: the Committee has to approve various
documents for the preparation of the RBMPs and the PoM according to the order of the Minister of the Environment.

In addition, the Water Act requires public display and public consultations where everyone can participate. The Water Act also explicitly requires approval of the draft RBMP by the following authorities: ministries whose area of government is related to the plan, county governments and local municipalities situated within the river basin district and the Water Management Committee.

The procedure for the review of the RBMPs is the same as the procedure for preparation of the RBMPs.

According to Article 3¹⁴ para 3 of the Water Act preparation of the PoM is arranged by the Ministry of Environment in accordance with the provisions on open procedure. The Water Act does not provide further details. The open procedure is regulated in the APA. The APA allows any interested person to participate but does not require the authorities to ensure the involvement of all interested persons. Only persons whose rights or obligations may be affected have to be involved. Participation is ensured by public display followed by a public hearing unless no proposals or objections were submitted during the public display. The Reglement of the Government of the Republic is also relevant as it sets out certain procedural requirements for preparation of the draft legal acts of the government. According to the Reglement a draft legal act of the government has to be approved by certain authorities before submitting it to the government. More specifically, the draft has to be approved by: a) other ministries and the Government Office if the draft imposes obligations on them or the draft concerns their area of governance or functions; b) nationwide associations of municipalities if the draft concerns the rights, obligations or functions of local municipalities or arrangement of the local activities. There is no relevant practice of involvement because the PoMs do not (currently) exist as separate documents.

The Water Act does not regulate the procedure for review of the Programme to Measures. According to the general principle set out in the APA open proceedings has to be conducted in order to amend the legal act if conducting of open proceedings is mandatory for the issue of a legal act.

Pursuant to Article 3¹⁶ of the Water Act the Action Plan for the implementation of the Programme of Measures has to be prepared by the Environmental Board. The Board has to involve county governments and local municipalities situated in the water basin district and other interested persons. The Action Plan is approved by the Minister of Environment on the basis of the proposal submitted by the Water Management Committee. No further details are provided in law as regards the preparation of the Action Plan. In practice, the stakeholders are involved through the workgroup established by the Minister of Environment (see above).

The legal character of Estonian environmental plans, including the RBMP, is ambiguous: it is not clear whether such plans have legal effect and, even if they do, whether they can affect third parties. In practice, environmental plans are often too vague to provide meaningful guidance and therefore should not be considered legal acts but rather as general strategies setting out an overall common vision. The law does not set out general regulation as regards the legal effects of environmental plans beyond the principle that in exercising discretion all relevant facts must be taken into account and all
legitimate interests have to be considered. There is very little relevant theoretical discussion and court practice.

The provisions of the Water Act that define the RBMP are silent as regards the legal effect of the RBMP. However, a few laws/regulations require that certain activities have to be in accordance with the RBMP. Also, some legal provisions refer to the RBMP as regards their precise content, e.g. the requirement that environmental objectives have to be achieved (see below).

### 6.1.2 Legal status in relation to individual decisions

Firstly, the legal effect of the RBMP derives from the incomplete nature of the regulation of the Water Act. The Water Act sets out general objectives and principles but refers to the RBMP as regards the application of the regulation to specific water bodies, such as providing an extension from the deadline of achieving the good status or setting out less stringent objectives for certain water bodies. If a provision of the Water Act (or other act or regulation) cannot be applied without reference to the detailed regulation set out in the RBMP then the RBMP has “binding effect” in the sense that the regulation of the RBMP has to be followed. Secondly, in accordance with the general principle of discretion administrative authorities have to take the RBMP into consideration in decision making. Thirdly, it can be argued that the RBMP are general orders that aim at coordinating water related activities in a river basin district. In order to ensure the coordinative effect any provision of the RBMP that is sufficiently detailed should significantly limit the discretion of administrative authorities in decision making. Furthermore, considering the extensive public involvement to the preparation of the RBMP it could be argued that if a provision is very specific the discretion of administration is reduced to zero and therefore the RBMP has direct legal effect also on third parties. In practice, the RBMPs are probably too abstract to reduce the discretion to zero and may be even too abstract to limit discretion. In this context it should be noted that the S-RBMPs are more specific. Also, in a few cases the law explicitly regulates the effect of S-RBMPs. For instance, according to a ministerial regulation\(^4\) the projects for cleaning up contaminated sites cannot be funded unless they are in accordance with the S-RBMP. (However, it is not entirely clear what “in accordance” means in this context, e.g. whether the measure must be in line with the S-RBMP or it has to be specifically stipulated in the S-RBMP.)

In short, the RBMP has a legal effect in the sense that it complements the regulation in the Water Act and also due to the principle that all relevant facts and interests have to be taken into consideration in exercising discretion e.g. when granting a permit. Beyond that the legal effect of the RBMPs is contentious. The effect depends on the legal nature of the RBMP, which in turn depends partly on the detail of regulation provided by the RBMP. On the basis of available information it seems that the plans do not have any significant effect on individual decisions in practice. It seems that the management plans are conceived as some type of strategy documents (not legal acts), which cannot limit discretion.

The following subsections describe how the RBMP is included in the permitting decision process: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

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Hydropower installations

The use of hydropower requires a water permit, which is issued by the Environmental Board. The law does not clearly set out the legal effect of the RMBP on issuing of a water permit but the Environmental Board has to refuse the water permit if it is “not in accordance with legal acts” (Article 9 para 10 of the Water Act), which arguably includes the RBMP provided that it is sufficiently specific to have binding effect. Moreover, a water permit to generate hydro energy cannot be issued if the restriction of the rights of landowners and other water users and the changes in the condition of a water body are ecologically or economically unjustified (Article 16 para 2). The latter provision predates the regulation on the RMBP and it is unclear what effect the RBMP (if any) has in the application of the provision.

As explained above the Water Act requires review of water permits when it becomes clear that achievement of environmental objectives is unlikely. In any case, the water permits cannot be issued for more than five years.

It should be noted that there is no system of concessions in Estonia. A proposal (by private sector) was made in 2010 to extend the validity of the permits to 30 years for production of hydroelectricity but apparently this proposal was not supported by the government. It should also be kept in mind that the hydropower potential of Estonian rivers is marginal, except the potential of river Narva but this river is already used by Russia to produce hydroelectricity.

Abstraction for agriculture

Water permit is required if water is abstracted from a surface water body in a volume of more than 30 m$^3$ per day or more than 5 m$^3$ from a groundwater body. The law does not explicitly regulate the effect of the RBMP on issuing the permits for the abstraction of water for agriculture – the general provisions are applicable (see above).

IPPC and other industrial installations

Discharges from IPPC installations require an integrated permit, which is issued by the Environmental Board on the basis of the Integrated Pollution Prevention and Control Act (the IPPC Act). The effect of the RBMP on issuing the integrated permit is not explicitly set out in law. However, the IPPC Act stipulates that the requirements established in other legal acts for the prevention and minimising of pollution have to be taken into account upon determination of the requirements of the permit (Article 17 para 4 of the IPPC Act). Also, the permit has to be refused if it does not comply with the requirements provided by legal acts or if it may be concluded on the basis of the information presented in the application for a permit that the activities for which the permit is applied for, does not allow compliance with the environmental norms (Article 16 of the IPPC Act).

Integrated permits are granted for an unspecified term. There is no explicit provision requiring the review of the existing permits in line with environmental objectives. However, the permit has to be amended, inter alia, upon change of the requirements set out in legal acts on which the requirements of the permit are based; and when the pollution caused by the installation is of such significance that negative effects are caused to the environment of the site of the installation and the existing emission limit values of the permit need to be reduced or new values need to be determined.
Other industrial discharges require the water permit. The law does not explicitly regulate the effect of the RBMP on the water permit for discharge of waste water – the general provisions are applicable (see above).

6.2 Relationship with other sectoral policy plans

There is no general provision setting out the effect of the RBMPs on other plans. There are a few provisions that regulate the legal relationship between the RBMP and certain other plans. First, specific programmes or plans may be prepared to set out the details of the RBMPs on certain aspects of protection and use of water, including plans for sub-basin districts. (Article 319 of the Water Act). Considering that the plans and programmes specify the RBMP it logically follows that such plans and programmes have to be aligned with the RBMP. There are several plans for management of river sub-basin districts. However, these plans predate the regulation in force: in fact, these plans do not implement the RBMPs but are the basis of the RBMPs.

Second, in establishing the flood risk management plan the environmental objectives have to be taken into account (Article § 336 para 4 of the Water Act). Also, flood risk management plan has to be taken into account in preparing the RBMP (Article 336 para 8 of the Water Act). The flood risk management plan is prepared at the same time as the RBMP in accordance with the procedure for preparing the RBMP (Article 337 para 1 of the Water Act). It is not clear what is meant by “at the same time”. Probably the law requires two parallel but coordinated proceedings. However, it is not clear to what extent the proceedings need to be coordinated or how the coordination is to be achieved. The procedure for preparing the flood risk management plan is not sufficiently regulated: it is not possible to follow the procedure for preparing the RBMP without some “creative” application of law. In practice the plans are prepared in the same process and apparently clear distinction is not made between the procedures. It should be noted that reference to the procedure for preparing the RBMP seems to imply that the responsible authorities for preparing the plans are the same - the Ministry of Environment and the Environmental Board – which would facilitate coordination. However, the procedure for approval differs. The RBMP is proposed by the Minister of Environment and approved by the Government of the Republic. The flood risk management plan is first approved by the Crisis Committee of the government and then adopted by the Government. The Crisis Committee has been set up on the basis of the Emergency Act. The Committee is permanent and chaired by the Minister of Internal Affairs. It has numerous functions related to assessment of potential crises and management of emergencies.

Third, the management plans for the land improvement systems of river basin sub-districts have to be prepared in accordance with the principles of the RBMPs (Article 52 para 1 of the Land Improvement Act). The wording implies that these plans have to be in line with the RBMPs.

Fourth, the public water supply and sewerage development plan has to be in accordance with S-RBMP (Article 4 para 23 of the Public Water Supply and Sewerage Act). It should be noted that the law refers to S-RBMP rather than the RBMP.

There are no provisions explicitly regulating the relationship between the RBMP and land-use plans. However, spatial planning has to co-ordinate and integrate the development plans of various fields and which, in a balanced manner, has to take into account the long-term directions in and needs for the development of the economic, social, cultural and natural environment (Article 1 para 3 of the Planning Act). Spatial
plans require approval of certain other authorities. The comprehensive plans need the approval of the Environmental Board. The approval of other authorities may be sought depending on the plan. However, it is possible to refuse approval only on the basis that the plan is not in accordance of law, legal act or other spatial plan (Article 17 of the Planning Act). It can be argued that the RBMP is a legal act but in practice it is not considered to be a legal act.

It should be noted that the law explicitly requires taking into account the PoM in preparing or reviewing comprehensive plans, detailed plans and the public water supply and sewerage development plan (Article 314 para 1 of the Water Act).

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

Responsible institutions for issuing permits (water use permits and IPPC) are in most cases Environmental Board and for one exemption (special water use at sea) also the Ministry of the Environment.

Permits (licences) are not coordinated by the main WFD competent authority.

The Environmental Board strives to guarantee the quality of Estonia’s ground water and of its rivers, lakes and other bodies of water. By issuing permits for the special use of water they keep activities which may have an impact on all forms of water under control.

Permits for the special use of water are required by companies and individuals who are seeking, for example, to lower the level of a body of water or to turn it into a dam or reservoir, or to use a river for the generation of hydroelectricity.

The first thing that must be established is the area and number of households that the planned activity may affect. It must also be made certain that the activity will not cause any damage to the environment. Here the Environmental Board’s role is often to act as a go-between in achieving agreement between the developers and representatives of the public interest.
Companies and individuals who wish to draw water from the surface water must also apply for a permit for the special use of water. This is also the case if they wish to extract a large amount of ice, ground water or mineral water, or if they are seeking to draw off effluent or other water-polluting substances into a recipient. The state and sensitivity of the body of water in question are taken into account when issuing such a permit. Checks are also made to ensure that the company is using the best possible technology, preventing pollution and the destruction of valuable plant and animal communities.

Where the special use of water is concerned it is important that water resources are used economically. For example, modern fish farms redirect water that has already been used back into their system once it has been purified.

A permit for the special use of water is also needed if someone is looking to deepen a body of water, install something at the bottom of one or sink solid substances in one, as well as for the deepening of boating channels and the construction of sea walls and landing places.

**7.2 Permit applications**

The process for application for a permit is described below (see Figure 1).

For the special use of water, a fixed-term permit for the special use of water shall be required from the operator, indicating the amount of water used, the water body into which the water is discharged and the obligations along the restrictions related to the use of water. The charge for the special use of water and/or the pollution charge shall be paid for the special use of water.

According to the Water Act, the special use of water shall include the following activities:

- water extraction from surface water body or ice is more than 30 m3 per day;
- water extraction from groundwater is more than 5 m3 per day;
- extraction of mineral water;
- in case of discharging wastewater or any other pollutants into water body or surface of the ground;
- the water level is blocked, retained, reduced or hydroenergy is used;
- the water body is established, removed, dredged or the soil is placed in its bottom;
- solids are suspended in the water body;
- the water level is blocked, retained, reduced or hydroenergy is used;
- physico-chemical properties of water or the biological properties of the water body are modified;
- chemicals are used for keeping the water body in order;
- fisheries with annual growth of more than 1t or if the water from the fishery is discharged into recipient water body;
- water is discharged into recipient water body with mining purposes.

A permit for the special use of water shall be issued by the Environmental Board of the location of the special use of water. If the special use of water takes place at sea, the permit shall be issued by the Ministry of the Environment.
If you discharge waste water or other substances polluting the environment into the sea, build/reconstruct the boat harbour site or the bank protection, you will receive the permit for the special use of water from the Environmental Board.

Applying for a permit for the special use of water shall be exempt from the state fee, but the special use of water shall be subject to the charge for the special use of water and/or the pollution charge as specified in the Environmental Charges Act.

A permit for the special use of water shall be issued for a term of up to 5 years.

Applying for a permit for the special use of water:

Submit the compliant application in a digitally signed form by email or send the application documents in 2 copies by mail to the Environmental Board or the Ministry of the Environment (in case the special use of water takes place at sea).

Registered users can submit applications for a permit for the special use of water also in the information system of environmental permits (KLIS).

Processing of an application:

A decision on the issue of or refusal to issue shall be made within up to 3 months as of registration of an application and shall be published in the official publication Ametlikud Teadaanded.

The application shall be registered immediately after the submission. The notice of the acceptance into the procedure shall be published in the official publication Ametlikud Teadaanded within 21 days.

If you submit an application, but it appears that you are not required to have a permit for the special use of water for your planned activities, you shall be informed thereof within 15 working days as of the registration of the application.
Figure 1 An example of a process for application for an environmental permit

1. Permit requesting organisation ('applicant') submits completed permit application form.

2. Regulatory Authority ('RA') calls application 'duly made'. If any information is missing, RA requests this from applicant.

3. RA begins 'determination' (process of assessing application and deciding whether to permit or not). RA notifies applicant of how long this process will take and may request further information.

4. RA consults on more complex applications within 30 days of the duly made date. Details of the application are placed on the RA's website and may also be publicised in a local newspaper. Any comments received are considered as part of the application.

5. For complex applications, the RA allows the applicant an opportunity to comment on the draft permit or notice before it is completed.

6. If the application is refused, the RA discusses the reasons with the applicant and provides a notice to explain the decision.

7. When the document is issued, the RA explains the applicant's rights of appeal against the decision.
The differences for water types and scales are highlighted in the table below (table 4).

**Table 4: Differences in the permit application process for different water uses**

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit application process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Water extraction from surface water body or ice is more than 30 m³ per day, water extraction from groundwater is more than 5 m³ per day, in case of mineral water abstraction</td>
</tr>
<tr>
<td>Impoundments</td>
<td>Permit is needed</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>Permit is needed</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>No permit needed, except in case of the large producers who Must obtain a permit according the IPPC directive requirements</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>Permit is needed</td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

### 7.3 Enforcement of permits: authorities

The primary authority for enforcement of water permits in Estonia is the Environmental Inspectorate, an administrative body under jurisdiction of the Ministry of Environment.

The Environmental Board under the Ministry of Environment carries out ambient monitoring, provides a range of permits, including for water and air discharges and for IPPC facilities, and it also undertakes regular controls of several types of facilities, including mines and IPPC facilities.

Local municipalities and a few other public bodies also have a subsidiary role in environmental enforcement. The local governments are mainly responsible for enforcement of Public Water Supply and Sewerage Act: according to this legislation, the supervision of compliance with the requirements of the act (including monitoring of wastewater treatment facilities) is shared by local governments and the Environmental Inspectorate. This means that both in practice carry out inspections for water supply and waste water treatment.

The Health Board under the jurisdiction of Ministry of Social Affairs is responsible for the quality of drinking and bathing water.

The Estonian Agricultural Registers and Information Board (AGRIB), a government agency working in the area of administration of the Ministry of Agriculture is responsible for implementation of the SAPARD (Special Accession Programme for Agricultural and Rural Development) programme in Estonia, in particular for the implementation of good environmental and agricultural conditions. In carrying out of the latter task, AGRIB
cooperates with the Environmental Inspectorate, which monitors compliance with environmental requirement of the SAPARD activities.

The Environmental Inspectorate is a national body. It has four regional departments and 11 county offices.

There are no separate authorities responsible for enforcement of different economic sectors. In general, the inspection and enforcement of activities carried out under water permits is the responsibility of the Environmental Inspectorate across all economic sectors.

The Environmental Board under the Ministry of Environment undertakes regular controls of several types of facilities, including mines and IPPC facilities. Under the Integrated Pollution Prevention and Control Act, the Environmental Board is required to carry out regular controls of facilities, and can amend or revocation of the permit. According to article 22 of Integrated Pollution Prevention and Control Act the issuer of permit (Environmental Board) shall review the requirements of the permit and perform an on-site inspection of the installation at least once a year, and amend the requirements of the permit as necessary. The annual inspection of an installation may be combined with the inspection of the installation by the Environmental Inspectorate.

There are no separate authorities responsible for the enforcement of different types of water-related permits. In general, the Environmental Inspectorate is responsible for enforcement of all types of water permits.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
The coordination is not based on fixed schemes or a clear legal basis; where it takes place, it is on an ad hoc basis.

One of the practical examples of coordination of efforts is the involvement of the Environmental Inspectorate in environmental related monitoring (e.g. inspection) of activities carried out under the SAPARD programme implemented by Estonian Agricultural Registers and Information Board.

Another example where coordination of efforts between local governments and Environmental Inspectorate takes place is inspection of urban wastewater treatment plants and their compliance with environmental protection requirements.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are separate entities. The main water management authority is the Ministry of Environment, which oversees policy in this area and also develops river basin management plans. The main executive authority (which also issues water permits) is Environmental Board under the jurisdiction of the Ministry of Environment.

Although it is not directly legally prescribed, the Environmental Inspectorate in practice coordinates its inspections work plan with Environmental Board and informs the Board of the results of the inspections.
7.5 Enforcement actions

7.5.1 Number of inspectors
The equivalent of 13.7 persons in 2010/2011 in the inspectorate work on water issues.

No breakdown by sector is available.

7.5.2 Number of inspections
1276 inspections; no breakdown by sector.

7.5.3 Number of infringement actions
In 2010, the Environmental Inspectorate found 121 violations of laws for the protection of water.

The Inspectorate fined 118 entities (both legal and physical persons), for a total of 437 800 Kroons (about 28,000 Euros). One criminal case was brought but ended without conviction.

No breakdown by sector.

7.5.4 Other mechanisms (in addition to inspections)
No information found.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
Estonian law distinguishes between two types of offences: criminal offences and misdemeanours. The distinction determines the principal punishments available for a particular offence.

Criminal offences are stipulated in the Penal Code.

Misdemeanours are stipulated in the Penal Code and other laws, and these offences are usually stipulated in the last chapter of the relevant specific act. Chapter 6 of the Water Act sets out six misdemeanours. The Water Act foresees only one type of punishment: fines. The fine for natural persons is expressed in fine units: at present, one fine unit is 4 Euros. Fines for legal persons are expressed in Euros.

The following misdemeanours are stipulated in the Water Act:

1) Causing a flood, creating a wetland or creating a prohibited reduction of the amount of water in a water body or aquifer. Maximum punishment is 100 fine units (natural persons) or 2000 Euros (legal persons).

2) Abstraction of water without a permit, where required, or violation of the requirements of a permit for the special use of water. Maximum punishment is 100 fine units (natural persons) or 2000 Euros (legal persons).

3) Violation of the procedures for water protection and use. Maximum punishment is 100 fine units (natural persons) or 2000 Euros (legal persons).

4) Violation of the quality and control requirements for drinking water. Maximum punishment is 300 fine units (natural persons) or 3200 Euros (legal persons).
5) The sale, without a corresponding permit, of drinking water which does not comply with quality requirements but is safe for health. Maximum punishment is 200 fine units (natural persons) or 2000 Euros (legal persons).

6) Emission of pollutants to sea (and prohibited storage of CO2 in a sea-area) where prohibited. Maximum punishment is 300 fine units (natural persons) or 32 000 Euros (legal persons).

A fine can be imposed either by the court or an extra-judicial body that is listed in the relevant law. The Water Act lists the Environmental Inspectorate as the primary extra-judicial body. (The Health Board is responsible as regards penalties for violating the quality requirements of drinking water.)

In addition, according to Estonian law, the permitting authority (Environmental Board) is entitled to amend or even revoke a water permit based on the monitoring data. The permit can be amended or revoked on the basis of both ambient monitoring data and levels of emissions, and the permitting authority has in this respect considerable room for discretion.

7.6.2 Sanctions normally brought for water violations
As indicated above, fines appear to be the main type of sanction brought for violations of water permits and water law.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
Environmental Inspectorate operates independently; the Ministry of the Environment and the Environmental Board are dealing with policy developments and their implementation only.

The system works effectively for the identification of major faults in a short term period.

7.7.2 Weaknesses of the system of inspections and enforcement
Inspections and enforcement should be more oriented to the objectives of river basin management plans. This would support the implementation of plans. Currently the link is missing.

Currently, inspections are too focussed on issues related to sewerage systems; dams and diffuse sources of pollution should receive more attention. The Environmental Inspectorate plans to pay more attention in future to river basis based inspection and enforcement

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is not thought that the RBMPs have strengthened enforcement. No significant changes, but the Environmental Inspectorate has the intention to pay greater attention in the future to a river basin based approach.
8 References
The best information available on the preparation and implementation of the plans and related documents are available at the websites of the Ministry of Environment (in Estonian) - www.envir.ee/vmk - and the website of the Estonian Environment Board (in Estonian): www.keskkonnaamet.ee/vesikonnad/

Comments from Katrin Väljataga, head of Department of Environmental Monitoring, Estonian Environmental Information Centre.

EE response to Commission feedback letter.

The Effectiveness of Transboundary River Basin Management with Regard to Public Participation in the Major River Basins of the Baltic States, Assessment Report, December 2011

Estonian legal acts, including the governmental order which approves the River Basin Management Plans, are available in the official database of legal acts (in Estonian): www.riigiteataja.ee.

Estonian State Portal: https://www.eesti.ee/eng/topics/business/load_ja_registreeringud_1/keskkond_1/vee_erikasutus

Estonian Water Act (in Estonian - https://www.riigiteataja.ee/akt/121122011019)

Homepage of Environmental Board (http://www.keskkonnaamet.ee/eng/activities/water/).

Homepage of Health Board: www.terviseamet.ee

Homepage of Ministry of Economic Affairs and Communication – www.mkm.ee

Homepage of the Ministry of the Environment – www.envir.ee

Information on activities of the water commission: http://www.envir.ee/vmk/veemajanduskomisjon

Interview with Rene Reisner from the Ministry of Environment and Himot Maran and Pavel Ojava from the Environmental Inspectorate


Legal offences by field (Excel sheet): http://www.kki.ee/eng/?part=html&id=19

Ministerial decree on establishing the water management commission (www.envir.ee/1181171, www.envir.ee/1181172)

National environmental board: http://www.keskkonnaamet.ee/vesikonnad/?op=body&id=120

Phone conversation with Mariina Hiiob, water specialist from the Environmental Board.
Regulation of Environmental Board from 20.10.2010 nr. 1-4.1/375 (related to forming the working groups for sub-districts)


Regulation of Minister of the Environment nr. 25 “Requirements for river basin water monitoring programmes” from 06.04.2011 (In Estonian - https://www.riigiteataja.ee/akt/112042011009).

Regulation of Minister of the Environment nr. 848 from 15.11.2011 (related to composition of the committee for organisation of water management)

Water Act, Penal Code

Water management commission: http://www.envir.ee/vmk/veemajanduskomisjon


Member State Governance Fact Sheet: GREECE

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Greek Central Water Agency (CWA) of the Ministry of the Environment, Energy and Climate Change</td>
<td>Regional/Provincial Water Directorates</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>CWA, Ministry of the Environment, Energy and Climate Change</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>CWA, Ministry of the Environment, Energy and Climate Change</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Prefectures</td>
<td>Ministers of Environment, Agriculture, Development, Interior and Finance</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Hellenic Environmental Inspectorate, Departments of Environment and Hydroeconomy of the Regions</td>
<td>Water Directorates of the Decentralised Administrations</td>
</tr>
</tbody>
</table>

The main competent authority responsible for the implementation of the WFD is the Greek Central Water Agency (CWA) of the Ministry of the Environment, Energy and Climate Change.
There have been no changes in administrative arrangements since the publication of the RBMP as no RBMP has been published yet.

1.1 Division of responsibilities
The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.) The Greek Central Water Agency (CWA) of the Ministry of the Environment, Energy and Climate Change is responsible for all water categories.

1.2 Authorities involved in preparing and approving the RBMPs
In general, the "Regional/Provincial Water Directorates" which are established at a Prefecture level are responsible to implement the WFD at a regional level and prepare the RBMPs (and the PoM), foresee public consultation etc. for the 14 RBDs, as laid out in the 2003-water law and the Common Ministerial Decree 47630/2005. In the first management cycle, however, the Water Directorates have authorised the Greek Central Water Agency (CWA) of the Ministry of the Environment, Energy and Climate Change to prepare the first RBMP for the 14 RBDs. This option was already included in the 2003-law, but as a possibility only for the first WFD-implementation cycle. The Minister of the Environment has to approve the plan/the PoM.

As described above, in the first management cycle there is only one authority responsible, for all geographical scales.

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The authorities that request monitoring are described below.

The Ministry of the Environment, Energy and Climate Change/the CWA, with the relevant state institutions/institutes having to deliver information/data; it is unclear, however, in how far own personnel, that of other state institutions/institutes or contracted service companies undertake the monitoring in the end.

Describing the responsibilities for monitoring, the sources assessed do not distinguish between the different types of monitoring; it can be assumed, therefore, that the Ministry of the Environment, Energy and Climate Change/the CWA is responsible for all types of monitoring.
3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table (Table 2).

Table 2: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nitrates Directive</td>
<td>Ministry of the Environment, Energy and Climate Change/CWA</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Ministry of the Environment, Energy and Climate Change/CWA</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of the Environment, Energy and Climate Change/CWA &amp; Ministry of Health and Social Solidarity</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Ministry of the Environment, Energy and Climate Change/CWA</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Ministry of the Environment, Energy and Climate Change/CWA</td>
</tr>
<tr>
<td>Climate</td>
<td>Ministry of the Environment, Energy and Climate Change.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The main body for inter-ministerial interaction/coordination/communication is in general the Ministerial Council, headed by the Prime Minister. Beyond that, the "national water board" ("Ethniki epitropi Idaton") is established through the 2003-water law: it consists of the Ministers of environment (president), interior, development, health and agriculture (as well as foreign affairs minister for issue related to transboundary management. Other ministers can be invited if of specific relevance. The national water board designs the policy for the protection and management of water resources, monitors and controls its implementation. In addition, based on a proposal by the Environment Minister, and the opinion of the national water council, it approves the "national programs of protection and management of water resources". It seems that this is something different than the RBMPs/POMs of the RBD, but linked to them.
3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 3).

Table 3: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Rural Development and Food.</td>
</tr>
<tr>
<td>Drinking Water</td>
<td>Ministry of the Environment, Energy and Climate Change &amp; Ministry of Health and Social Solidarity</td>
</tr>
<tr>
<td>Wastewater</td>
<td>Ministry of the Environment, Energy and Climate Change.</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Infrastructure, Transport and Networks.</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC Ministry of the Environment, Energy and Climate Change &amp; Ministry for Development, Competitiveness and Shipping.</td>
</tr>
<tr>
<td></td>
<td>Non IPPC Ministry for Development, Competitiveness and Shipping.</td>
</tr>
<tr>
<td>Mining</td>
<td>Ministry for Development, Competitiveness and Shipping.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The main body for inter-ministerial interaction/coordination/communication is in general the Ministerial Council, headed by the Prime Minister. Beyond that, the "national water board" ("Ethniki epitropi Idaton") is established through the 2003-water law: it consists of the Ministers of environment (president), interior, development, health and agriculture (as well as foreign affairs minister for issue related to transboundary management. Other ministers can be invited if of specific relevance. The national water board designs the policy for the protection and management of water resources, monitors and controls its implementation. In addition, based on a proposal by the Environment Minister, and the opinion of the national water council, it approves the "national programs of protection and management of water resources". It seems that this is something different than the RBMPs/POMs of the RBD, but linked to them.

4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation

As already discussed above, Law 3852/2010 transferred many of the responsibilities of the Regional Administration Authorities (which turned from a body of the central
government into a body of the local government) to the Decentralised Administration Authorities (body of the central government). Pertaining to the public’s participation in the preparation of the RBMP, all competences are transferred to the Decentralised Administration Authorities with the Regional Administration Authorities being responsible only for organising informative meetings and educating the public on the protection of the aquatic ecosystems.\textsuperscript{45} Henceforth, the report will specify the competent authority regardless of the reference made in Law 3199/2003 and PD 51/2007.

The legislation that transposes the WFD into Greece (namely Law 3199/2003 and PD 51/2007), provides that the Water Directorates of the Decentralised Administration Authorities are responsible for ensuring that the public participates effectively in the procedures for the protection and management of waters, in particular in the process of developing, updating and revising the RBMPs.\textsuperscript{46} Before the adoption of the RBMP and at least one year before the beginning of the period to which the plan refers to the Water Directorate of the Decentralised Administration Authority must submit a copy of the plan to the Regional Water Council. The Regional Water Council within five days from the receipt of the RBMP will make a call for written comments in the regional or national daily press and, possibly, electronically. At the same time, the Regional Water Council shall ensure that this announcement is also posted in the bulletin board of the prefectures within the region. The deadline for the submission of comments is set by the Regional Water Council and cannot be more than six months from the publication of the RBMP. After this period, the Regional Water Council provides the Water Directorates of the Decentralised Administration Authority with its opinion as well as the comments of the public; these must be taken into consideration when adopting the RBMP. On request, the Water Directorates of the Decentralised Administration Authorities shall provide access to background documents and information used for the development of the draft RBMP. The Greek legislation does not refer more specifically to the participation of water users and local authorities nor does it provide that the public should be also involved in the implementation of the RBMP.

5 \hspace{1cm} \textbf{Impact of the WFD}

5.1 \textbf{Changes to water governance resulting from the WFD}

New authorities have been created as a result of the WFD. Central Water Agency: the CWA was established as a reaction to the WFD and has taken over various responsibilities related to water management that before that were "scattered" across many ministries/state institutions. Regional Water Directorates and Councils: The transposition of the WFD into Greek national law was finalised in 2007; the main legislative measure to accomplish this was the Greek Water Law (Law 3199/03), which, however, required several presidential decrees and ministerial decisions, in order to be applied. To cope with the WFD requirements, Regional Water Directorates and Councils were established within each River Basin District / Water Region (RBDs), with the responsibility of organising and coordinating water policy activities (including water pricing) and specific Water Programmes and Action Plans with specific measures for each RBD. They should be in charge of implementing the WFD in the RBDs and drafting the RBMPs, although this task was delegated to the competent authority. This "down-
scaling" of responsibilities is (theoretically) a great shift in Greek governance, which is traditionally very centrally organised.

Theoretically, the new set-up of institutions can be of great advantage. At the same time and in practice, the new authorities (both at the central and regional level) face a variety of difficulties (resourcing/staffing, implementation/enforcement of laws/decisions. an indication for these difficulties is that the RBMPs (of the first cycle, so very late) are prepared by external consultant consortia.

5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

6 Analysis of the nature of RBMPs
6.1 Characterisation of the legal status of the River Basin Management Plan
As previously noted, the RBMPs will be adopted by a Decision of the Secretary General of each of the seven Decentralised Administration Authorities in Greece, i.e. they will be adopted by Regulatory Administrative Acts. In general, Article 16 of Law 3199/2003 provides that other laws which may be found in contradiction to Law 3199/2003 or regulate the same issues as Law 3199/2003 shall be considered as void when this law enters into force. A similar provision is also found in PD 51/2007 according to which any provision which is in contradiction to the PD shall be considered as void (subject to certain exceptions). However, both these legal instruments do not regulate the legal effect of the RBMP per se; its legal effect is a consequence of its nature as a Regulatory Administrative Act issued by the Secretary General of the Decentralised Administration Authority.
Directive 2000/60/EC is transposed into the Greek legal order by Law 3199/2003 ‘Protection and management of water – compliance with Directive 2000/60/EC’ (Government Gazette (ΦΕΚ) Α’ 280/2003) and Presidential Decree (PD) 51/2007 ‘Defining the Measures and Procedures for the integrated protection and management of water, in conformity with Directive 2000/60/EC’ (Government Gazette Α’ 54/2007). Law 3199/2003 was adopted on time and provided that each Region must prepare a RBMP for the rivers located within its territorial jurisdiction; the exact content of the RBMPS is provided in PD 51/2007. The Commission has commenced an infringement procedure against Greece as it has not yet adopted any RBMPS.47

In order to implement the WFD the Greek transposing legislation created the following bodies:

a) The National Committee on Water (Εθνική Επιτροπή Υδάτων) which consists of the Minister of Environment, Energy and Climate Change (‘ΕΕΚ’), the Minister of Infrastructure, Transport and Networks, the Minister of Finance, the Minister of Development, Competitiveness and Maritime Affairs, the Minister of Interior, the Minister of Health and Social Solidarity and the Minister of Rural Development and Food; 48

b) The National Water Council (Εθνικό Συμβούλιο Υδάτων) which consists of the Minister of EECC and representatives of political parties and public bodies (e.g., the Pan-Hellenic Organisation of Unions of Agricultural Cooperatives, the Federation of Greek Industries, the Technical Chamber of Greece, the Geotechnical Chamber of Greece, the National Centre for Marine Research, the Consumer Institute) . This body is responsible for consulting on the programmes for water resources management protection;

c) The Special Secretariat for Water (Ειδική Γραμματεία Υδάτων) which is a department of the Ministry of EECC that coordinates public entities involved in water management and supervises/consults on all relevant processes;49

d) Water Directorates of the Decentralised Administration Authorities (Διεύθυνση Υδάτων της Αποκεντρωμένης Διοίκησης) which, amongst others, prepare the RBMPS and the PoM. Greece is divided in seven Decentralised Administration districts.

e) Regional Water Councils (Περιφερειακό Συμβούλιο Υδάτων) which consists of representatives of local authorities and public bodies (e.g. a representative of all municipal enterprises for water supply and sewage, a representative of the environmental NGOs, one representative of each Union of Agricultural Cooperatives). This body is responsible for the RBMP consultation.


48 Please note that the name of the relevant Ministries have changed since the adoption of Law 3199/2003. Article 3 of that Law refers to the following ministers: Minister of Environment, Regional (Spatial) Planning and Public Works; Minister of Finance and Economics; Minister of Interior, Public Administration and Decentralisation; Minister of Development; Minister of Health and Welfare; Minister of Agriculture. See also the website of the Ministry of EECC http://ypeka.gr/Default.aspx?tabid=247&language=el-GR (last accessed 13 March 2012).

49 Please note that this department of the Ministry of EECC was previously called under Law 3199/2003 ‘Central Water Agency’ (Κεντρική Υπηρεσία Υδάτων)(Article 4).
A special note must be made concerning the competence of the Water Directorates of the Decentralised Administration Authorities. Law 3199/2003 and PD 51/2007 (transposing the WFD into the national legal order) designate as competent authorities for the preparation of the RBMPs and the PoM the Water Directorates of the Regional Administration Authorities; however, these competences have now been transferred to the Decentralised Administration Authorities. Law 3852/2010 ‘The new architecture of Local Administration and Decentralised Administration – Programme Kallikrates’ (Government Gazette A’ 87/2010) changed the administrative structure of Greece by dividing the country into seven Decentralised Administration districts (headed by the Decentralised Administration Authorities which are authorities of the central government) and 13 Regions (headed by the Regional Administration Authorities which are elected authorities of the local government). Therefore, since the adoption of Law 3852/2010 the Decentralised Administration Authorities and the Regional Administration Authorities share the competences provided in Law 3199/2003 and PD 51/2007.

In particular, Article 280(I) of Law 3852/2010 provides that the Decentralised Administration Authorities are responsible for preparing the RBMP and the PoM as provided in Law 3199/2003. In addition, they are also responsible for their implementation with two exceptions: the Regional Administration Authorities (local government) are responsible for controlling the management of ground and surface irrigational waters and for controlling the research for the discovery of groundwaters and the exploitation of water (Article 186(II)(C)(a) Law 3852/2010). In the following text the competent authority will be each time specified according to the new structure.

Article 7(1) of Law 3199/2003 provides that each Decentralised Administration Authority is responsible for preparing the RBMPs for the rivers in its territory; such RBMPs will be valid for 6 years. If two or more Decentralised Administration Authorities are responsible for the same river basin district, they will draft the RBMP together. More specifically, RBMPs are prepared by the Water Directorates of the Decentralised Administration Authorities and are approved by a decision of the Secretary General of the Decentralised Administration Authority, after consulting the Regional Water Council and obtaining the assent of the Special Secretariat for Water. The Secretary General of the Decentralised Administration Authority may request that the first RBMP is prepared by the Special Secretariat of Water of the EECC.

According to Article 8 of Law 3199/2003, the Decentralised Administration Authorities are also responsible for preparing the Programme of Measures (PoM) and the Monitoring Programme which constitute a part of the RBMP. Both the PoM and the Monitoring Programme are adopted following the same procedure as the RBMPs, i.e. by a decision of the Secretary General of the Decentralised Administration Authorities after consulting the Regional Water Council and obtaining the assent of the Special Secretariat for Water.

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50 Note that before the adoption of Law 3852/2010 the Regional Administration Authorities were bodies of the central government, i.e., not elected authorities of the local government.

51 See also http://ypeka.gr/LinkClick.aspx?fileticket=z8xSoWZkqR4%3d&tabid=247 (last accessed on 13 March 2012); Circular of the EECC on the competences of the Decentralised Administration Authorities and the Regional Administration Authorities in the field of water according to Law 3852/2010 (Protocol Number 150673, 13 July 2011) available at http://ypeka.gr/LinkClick.aspx?fileticket=%2fX3rNZEmzpg%3d&tabid=247&language=el-GR (last accessed on 13 March 2012).

52 Article 7(2), first indent Law 3199/2003.

53 Article 7(2) second indent, Law 3199/2003.

54 Article 8(4) and (6) Law 3199/2003.
6.1.1 Legal effect

As with the other legal systems in continental Europe, which are based on Roman law, the sources of law which underpin the Greek legal order are very specific.

Under Article 26 of the Constitution, legislative power is vested in Parliament and the President of the Republic. Only these two state bodies have the power to legislate or to assign part of this power to other state bodies.

The highest form of binding law in the Greek legal order is the Constitution. The present Constitution was adopted in 1975 and underwent minor amendments in 1986 and 2001. It is the apex of the pyramid of the Greek legal system. In accordance with Article 28 of the Constitution, generally acknowledged rules of international law and international conventions that have been ratified by statute and have entered into force in accordance with their respective provisions form an integral part of domestic Greek law and take precedence over any provision of law that contradicts them. This Article is one of the bases of a lively debate among Greek constitutionalists on whether EU law may be considered as superior to the Greek Constitution or on the same rank as the Constitution.

Immediately below the Constitution and EU law are the laws adopted by Parliament. The right of legislative initiative rests with Parliament and the Government. These are often called ‘formal laws’ (τυπικοί νόμοι) in that they have been adopted by the Parliament.

Under Article 43(2)(a) of the Constitution, the President of the Republic, acting on the proposal of the competent Minister, issues the decrees necessary to implement the laws and may not suspend the implementation of laws or exempt anyone from their application. For the regulation of more specific matters, matters of local interest and matters of a technical or detailed nature, regulatory administrative acts may be issued on the basis of special authorisation given by law, within the limits laid down in the authorisation (Article 43(2)(b) of the Constitution). Such regulatory acts may be issued by other administrative bodies and must be respected by private parties, other authorities and the Courts. The hierarchical position of Regulatory Administrative Acts depends on the hierarchical position of the body that issues them, i.e., Regulatory Administrative Acts adopted by the Decentralised Administration Authorities are inferior to Regulatory Administrative Acts adopted by bodies superior to the Secretary General of the Decentralised Administration Authority.

RBMPs are adopted by a Decision (Regulatory Administrative Act) of the Secretary General of each of the Decentralised Administration Authorities, i.e., even though their provisions must be observed by other authorities, private parties and the Courts, they are still inferior to the provisions of the Constitution, formal laws as well as other Regulatory Administrative Acts adopted by bodies superior to the Secretary General of the Decentralised Administration Authority.

Greece has not adopted any RBMPs yet; as already discussed above, such plans will be adopted by a Decision of the Secretary General of each of the Decentralised Administration Authorities, i.e. through a Regulatory Administrative Act. Regulatory Administrative Acts contain rules of law which are general (i.e., rules not directed at a predetermined number of persons) and abstract (i.e., rules not intended to regulate a specific number of cases). Regulatory Administrative Acts are binding both on other authorities and the citizens.

Several legal instruments refer directly to the RBMPs: the Joint Ministerial Decision 150559 on the ‘procedures, conditions and requirements for the provision of licences in the case of already existing water use rights’ (Governmental Gazette B’ 1440/2011) provides that licences will be granted only if the use of the water resources is in conformity with the RBMP for that river basin district. If no RBMP is in place, the licence shall be granted if the water use is considered compatible with the National Register of Protected Areas.\(^56\)

Further, the Committee Coordinating the Governmental Policy for Spatial Planning and Sustainable Development issued Decision 31722 on ‘the approval of the spatial framework for Spatial Planning and Sustainable Development of Aquaculture and the strategic study of its environmental impacts’ (Government Gazette B’ 2505/2011). This Decision provides that an area will be designated as an ‘Area of Organised Development of Aquaculture’ if the interested party submits: a) a technical-economical study; b) a feasibility – sustainability study which will document the suitability of the area and the compatibility of the proposed actions with the RBMP; and c) a strategic study of environmental impacts.\(^57\)

The Greek legislation also often refers to the environmental objectives set out in Article 4 of the WFD (i.e. transposed into the Greek legal order by Article 4 of PD 51/2007). In particular, Article 10 of the Joint Ministerial Decision 145116 on ‘the measures and conditions under which the reuse of wastewater may be permitted’ (Government Gazette B’ 354/2011) provides that the interested party must apply for a licence to the Water Directorate of the Decentralised Administration Authority. The Water Directorate will assess the compatibility of the proposed use with the approved Programme of Measures under Article 12 of PD 51/2007, if such PoM exists in order to achieve the environmental objectives of Article 4 of PD 51/2007.

### 6.1.2 Legal status in relation to individual decisions

The Greek competent authorities have not adopted any RBMPs yet. Article 11(1) of Law 3199/2003 states that the use and exploitation of water resources as well as activities for the protection of water resources from wastewater are subject to a permit. This permit will be awarded after verifying the availability of the water resources as well as the compatibility of the permit with the RBMP and the PoM. Furthermore, the legal nature of RBMPs as Regulatory Administrative Acts issued by the Decentralised Administration Authorities obliges other authorities and third parties to comply with their provisions.

No provision requiring the review of existing permits/concessions in line with the environmental objectives has been identified in the legislation transposing the WFD in the Greek legal order (Law 3199/2003 and PD 51/2007). However, as already noted, RBMPs will be binding upon other authorities and citizens and as a consequence they cannot be considered as merely providing policy guidance.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

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\(^{56}\) Article 4(3) of the Joint Ministerial Decision 150559 on the ‘procedures, conditions and requirements for the provision of licences in the case of already existing water use rights’ (Governmental Gazette B’ 1440/2011).

\(^{57}\) Article 6 of Decision 31722 on ‘the approval of the spatial framework for Spatial Planning and Sustainable Development of Aquaculture and the strategic study of its environmental impacts’ (Government Gazette B’ 2505/2011).
Hydropower installations

Article 10 of Law 3199/2003 acknowledges the following water uses: water supply, irrigation, industrial, energy and recreational use. Water supply takes precedence over any other use. All possible water uses are subject to the following rules, which must also be taken into account by the RBMP:

a) water use should be directed to the sustainable and balanced fulfilment of development needs and ensure the long-term protection of the water and the adequacy of the water reserves while maintaining their quality; b) the fulfilment of the needs for water is dependent on the water reserves’ capacity, considering also the need to preserve the ecosystems and the balance between pumping and recharging of groundwaters. Water use needs must be met at the river basin district level if possible.

As mentioned above, Article 11(1) of Law 3199/2003 provides that the use or exploitation of water resources is subject to a permit. This permit will be issued by the Secretary General of the Decentralised Administration Authorities after verifying the availability of the water resources as well as the compatibility of the permit with the RBMP and the PoM.

Article 6(1) of the Joint Ministerial Decision 43504 on ‘the categories of permits for water use and exploitation of water resources’ (Government Gazette B’ 1784/2005) provides that hydro-electric power installations as well as projects which are necessary to realise the water use (e.g., transportation, pumping and injection of water projects) are subject to a joint permit for the use and exploitation of water resources (i.e., not two separate permits for the use and the exploitation of water resources).

Concerning the procedures, conditions and requirements for the granting of licences in the case of existing rights to use and exploit water resources, the Joint Ministerial Decision 150559 (Government Gazette B’ 1440/2011) provides that in the case of hydro-electric power installations the granting of the permit must ensure that the use of the water resources is in compliance with the RBMP.58

In addition, the Ministerial Decision 13310 on the procedure for issuing licences for the establishment and operation of power plants using renewable energy (Government Gazette B’ 1153/2007) provides that the establishment of hydro-electric power installations is subject not only to the conditions of Ministerial Decision 13310 but also to those of Law 3199/2003.59

Abstraction for agriculture

The general provisions of Articles 10 and 11 of Law 3199/2003 and the Joint Ministerial Decision 150559 on the granting of licences in the cases of already existing rights as analysed above apply.

IPPC and other industrial installations


58 Article 4(3) of Joint Ministerial Decision 150559 ‘Concerning the procedures, conditions and requirements for the granting of licences in the case of existing rights to use and exploit water resources’ (Government Gazette B’ 1440/2011).
59 Article 12(10) of Ministerial Decision 13310 on ‘the procedure for issuing licences for the establishment and operation of power plants using renewable energy’ (Government Gazette B’ 1153/2007)
This law recognises that certain activities of the public and private sector may affect the environment and subjects them to environmental permitting procedures. However, Law 1650/1986 has not been subsequently amended in order to make reference to the RBMPs or to the environmental objectives as set out in Law 3199/2003 and PD 51/2007.

6.2 Relationship with other sectoral policy plans

As already noted Greece has not adopted any RBMPs yet; further, the text of the draft RBMPs is not publicly available in order to ascertain whether they contain an obligation to revise already existing plans to ensure that they comply with RBMPs. RBMPs have a binding effect both on citizens and on other authorities, i.e. other authorities must respect the provisions of the RBMPs in the exercise of their competences. Law 3199/2003 does not explicitly provide which plans should be revised to be in line with RBMP; it merely states that provisions of other laws that regulate the same issues with Law 3199/2003 shall be abolished.

Concerning the question of whether basin authorities are also involved/consulted in the preparation/adoption of land use/spatial plans, Law 2742/1999 on regional (spatial) planning (Government Gazette A’207/1999) does not specifically refer to Law 3199/2003 and PD 51/2007. The Competent Authorities for regional (spatial) planning under Law 2742/1999 are:

- The Committee coordinating the governmental policy in the field of (regional) spatial planning and sustainable development which consists of the same Ministers as the National Water Committee plus the Minister of Culture and Tourism;
- The Scientific Secretariat for regional (spatial) planning and public works in the Ministry EECC (currently this service of the Ministry of EECC is called ‘General Secretariat for Regional Planning and Urban Development’)
- The National Council for regional (spatial) planning and sustainable development which consists of the General Secretary of the Ministry of EECC as well as representatives of various stakeholders’ groups.

The General Framework for regional (spatial) planning and sustainable development and the Special Frameworks for regional (spatial) planning and sustainable development are prepared by the Ministry of EECC. The Regional Frameworks for regional (spatial) planning and sustainable development are prepared either by the Regional Authorities or by the Ministry of EECC and are approved by a decision of the Minister of EECC.

Therefore, it seems that the main authorities responsible for the implementation of the RBMP (Water Directorates of the Decentralised Administration Authorities, Special Secretariat for Water of the Ministry of EECC) are not directly involved in the preparation/adoption of spatial plans. Note however that the Committee coordinating the governmental policy in the field of spatial planning consists of the same Ministers as the National Water Committee with the exception of the Minister of Culture and Tourism who does not participate in the latter. Moreover, Law 2742/1999 on regional (spatial) planning acknowledges as one of its objectives the rational use and integrated management of Greece’s water resources.\textsuperscript{60}

\textsuperscript{60} Article 2(2)(i) of Law 2742/1999 on regional (spatial) planning (Government Gazette A’207/1999).
Pertaining to flood risk management plans, the Joint Ministerial Decision 31822 on the ‘assessment and management of flood risks’ (Government Gazette B’1108/2010), which transposes Directive 2007/60/EC into the Greek legal order, emphasises its relationship to the national legislation transposing the WFD (namely Law 3199/2003 and PD 51/2007). The Competent Authorities under this Ministerial Decision are the Special Secretariat for Water in the Ministry of EECC and the Water Directorates of the Regional Administration Authorities (local government). Article 3(2) of the Joint Ministerial Decision 31822 directly refers to the competences of the relevant authorities under Article 5(5)(a) of Law 3199/2003. However, these competences have been transferred from the Regional Administration Authorities to the Decentralised Administration Authorities after the adoption of the law changing the administrative structure of Greece. Therefore, despite the fact that the Joint Ministerial Decision transposing Directive 2007/60/EC was adopted after the Law 3862/2010 came into force (and thus should have taken that law’s provisions into account), it can be argued that the Competent Authority under Article 3(2) of the Joint Ministerial Decision 31822 is the Water Directorates of the Decentralised Administration Authorities.

Joint Ministerial Decision 31822 on ‘the assessment and management of flood risks’ stipulates that the Water Directorates of the Regions (local authorities) shall take all necessary measures to coordinate the implementation of the present decision with the provisions of PD 51/2007, noting in particular the opportunities to improve efficiency, information exchange and achieve common synergies having regard to the environmental objectives of Article 4 of PD 51/2007 (Article 8). Essentially, in this regard, the national legislation reproduces the text of the Directive.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

According to the 2003-water law all "water abstraction, water use, activities to utilise water resources" need permits. The licenses are provided by the secretary general of the relevant prefecture. At the same time, it is stated that the categories of licences and the specific procedure of permitting, their content and their duration are specified in common by the Ministers of Environment, Agriculture, Development, Interior and Finance and should be specific for each theme/activity.

Permits (licences) are not coordinated by the main WFD competent authority.

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61 Articles 280(I) and 186(II)(F) (i.e., 186(II)2Τ) of Law 3862/2010.
62 Please see analysis above on whether it should be considered that the Water Directorates of the Decentralised Administration Authorities should be the Competent Authority under Article 8 of Joint Ministerial Decision 31822.
There is no inventory of permits (licences).

### 7.2 Permit applications

No information found on the process for application for a permit.

Regarding permits for abstractions, impoundments and hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management. The prefecture is responsible for issuing permits and at the same time responsible for developing the RBMP/POM (at least from the second implementation cycle). No information found regarding mechanisms to reduce conflicts of interest.

Regarding permits for point source discharges and diffuse pollution measures, it is unclear whether these are considered a "water use activity".

### 7.3 Enforcement of permits: authorities

According to the 2010 'Kallikratis' Law (3852/2010, OJA A/7-6-2010, named after one of the architects of the Athens Acropolis), Greece's former administrative system of 13 Regions, 54 Prefectures and 1033 municipalities and communities has been replaced by 7 Decentralised Administrations, 13 Regions and 325 Municipalities. The regions and municipalities are self-governed, while the decentralised administrations are to be run by a General Secretary appointed by the national Government.

The main enforcement authorities are located at national level, in the decentralised administrations and at regional level.

At national level, the Hellenic Environmental Inspectorate (HEI) under the Special Secretariat for the Environment and Energy Inspectorate has the responsibility to undertake inspections in order to monitor compliance with all environmental permits (including water permits) for projects of the private and public sectors. The Inspectorate performs both regular inspections and inspections after the submission of relevant complaint or after a request by a local authority.

The Decentralised Administrations each have a Water Directorate that is competent, according to Article 13 of JMD 145116/2011 (OJ B 354/8.3.2011) "On the determination of measures, conditions and procedures for the reuse of treated liquid waste and other provisions" to perform regular and unexpected inspections in order to ensure compliance with all the terms and conditions applied through water reuse permits.

At regional level, the enforcement, monitoring and control of the compliance with the provisions of the water use permits is conducted by the Departments of Environment and Hydroeconomy of the Regions. The Departments perform regular audits regarding all water permits and, in case of non-compliance, it issues a Proposal for Sanctions to the General Secretary of the Region, who issues the relevant Decision.

Finally, all inspectors may ask for the cooperation of the police authorities, especially in cases when the inspectors anticipate problems or resistance in performing their inspection.

As noted above, enforcement authorities are located at three levels: at national level, in the decentralised administrations and at regional level.

There are separate authorities responsible for enforcement of different economic sectors.
IPPC and industrial facilities: the Hellenic Environmental Inspectorate of the Special Secretariat for the Environment and Energy Inspectorate is the lead enforcement authority. (While the Inspectorate mainly focuses on industrial facilities, it also has the competence to perform any inspection to any work, activity or facility on issues related to environmental legislation.)

Agriculture: no information found.

Hydroelectricity: no information found.

There are separate authorities responsible for the enforcement of different types of water-related permits. For water use permits, the Departments of Environment and Hydroeconomy of the Regions, are the lead authorities for enforcement. For water reuse from treated wastewater, the Water Directorates of the Decentralised Administrations are the lead authorities for enforcement.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
Information not found.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are separate entities. A requirement for coordination between Decentralised Administrations and regions is set out in government documents. The competent departments of the Regions (especially the Directorate of Hydro-economy and Environment) are to cooperate closely with the Water Directorates of the Decentralised Administrations. A Circular was issued in 2011 (no. 150673/13.7.2011) by the Special Water Secretariat of the Ministry of Environment, Energy and Climate Change regarding the competencies of the Decentralised Administrations and the Regions of the country and their coordination in issues regarding water management according to Law 3852/2010. The competent Directorates of the Regions have to be in constant communication and establish good cooperation in order to achieve the strategic goals for the protection and management of water. The Decentralised Authority shall help, assist and monitor the actions of the Regions, and the Special Water Secretariat shall assist the Decentralised Administration in the implementation of the national water policy.

At national level, the Hellenic Environmental Inspectorate closely cooperates with the Special Water Committee, which plays a coordinating role between the various authorities with competencies in the management of water resources, especially in major pollution cases of water resources.

An example is the river basin of Asopos River, located in Viotia, Greece. In the area around the river, since 1969 an industrial zone has been located, with many facilities operating without the necessary permits or in violation of their permitting terms and conditions. As a result, these facilities discharged for years large amounts of wastewater and untreated industrial liquid waste in the river of Asopos, including heavy metals. The Inspectorate has in recent years performed a significant number of inspections and has imposed sanctions on a large number of facilities. During the years 2004-2010, the Inspectorate has performed 194 inspections to facilities allocated at the Asopos area and has imposed fines reaching the total amount of 5.2 million Euros (source: The Activities of the Hellenic Environmental Inspectorate 2010-2011). In cooperation with the Special
Water Committee, an Integrated Plan for the Confrontment of the Environmental Crisis in the Asopos River” has been designed and adopted in 2010. Also, these two authorities worked closely together in order to develop Environmental Quality Standards for the Asopos River and to establish limit values for the discharge of industrial waste in the river basin.

7.5 Enforcement actions

7.5.1 Number of inspectors
No information found.

7.5.2 Number of inspections
No information found (see however information on the Asopos River case, above).

7.5.3 Number of infringement actions
No information found (see however information on the Asopos River case, above).

7.5.4 Other mechanisms (in addition to inspections)
No information found.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
The following sanctions are foreseen in legislation.

Water legislation.


Administrative sanctions.

To any natural or legal persons who pollute or otherwise downgrade the water, or breach the provisions of this Law or of the Acts which have been issued under this Law, as also to those who breach the terms and restrictions provided for in the licences pursuant to article 11, a fine is imposed as administrative sanction ranging from 200 Euro to 600.000 Euro, depending on the severity, the frequency and the relapse of the breach, independently from the penal or civil liability or the administrative sanctions provided for by other provisions. The fine is imposed by a decision issued by the General Secretary of the Region after an inspection, a report on the discovery of the breach and a proposal by the competent Directorate of the Region.

In the case of a very serious case of water pollution and especially when the nature or the quantity of the pollutants or the dimension of or the significance of the water pollution leads to a risk of human life or risk of heavy bodily injury or to a significant ecological damage or disaster, the fine can reach the amount of 1,500,000 Euro.

When an enterprise or activity causes pollution or other degradation of water, its operation can be temporarily restricted, until all appropriate measures are taken in order to permanently stop the pollution or degradation of water. The permanent termination of
the enterprise can also be imposed, if the enterprise or activity does not comply with the recommended measures or if the implementation of effective measures is impossible. The termination is imposed through a Decision of the General Secretary of the Region after a proposal, autopsy and a relevant report on the discovery of the breach from the competent Directorate of the Region. Together with the act of termination of operation, a fine can be imposed, ranging from 500 up to 50,000 Euro, for each day of breach of this termination.

**Criminal sanctions**

To anyone who causes pollution or otherwise degrades water, through an act or omission which is prohibited by the provisions of this Law or by acts issued under this Law, as also to anyone who operates an activity or enterprise without the licence or permission provided for according to the provisions of this Law or of the Acts issued under this Law, or to anyone who exceeds the limits of the licence or permit which has been issued and degrades the water, the penal sanctions provided for in article 28 of Law 1650/1986 are imposed.

Article 28 of Law 1650/1986 provides for penal sanctions and has been amended by Article 7 of Law 4042/2012, which is the Law that transposes Directive 2008/98/EC on criminal penalties in the national legal order. According to this Article, an imprisonment sentence reaching up to two years is threatened, together with a monetary penalty up to 60,000 Euro.

In cases of a severe ecological disaster, or according to the amount of the pollutants and the significance of the pollution event, or in the case that a death of person or an embryo is caused, then an imprisonment sentence of five up to twenty years is imposed, together with a monetary penalty ranging from 150,000 up to 500,000 Euro.

IPPC: In addition, administrative and criminal sanctions can be imposed for IPPC offences. The main administrative sanctions are fines. Criminal sanctions include fines and/or imprisonment for pollution or carrying out an activity/enterprise without a necessary permit. (Milieu IPPC study, based on Article 30 of Law 1650/1986 (administrative) and Article 28 Law 1650/1986 (criminal)).

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
No information found.

7.7.2 Weaknesses of the system of inspections and enforcement
No information found.

7.7.3 Influence of the WFD and the RBMPs on enforcement
No information found.
8 References


Committee Coordinating the Governmental Policy for Spatial Planning and Sustainable Decision 31722 on ‘the approval of the spatial framework for Spatial Planning and Sustainable Development of Aquaculture and the strategic study of its environmental impacts’ (Government Gazette 2505/2011);


EC Commission page on the state of implementation of the WFD (http://ec.europa.eu/environment/water/water-framework/index_en.html)


Hellenic Environmental Inspectorate, The Activities of the Hellenic Environmental Inspectorate 2010-2011

Homepage of the Greek Government (http://government.gov.gr/)

Homepage of the Ministry for Development, Competitiveness and Shipping (http://www.mindev.gov.gr/).


Homepage of the Ministry of Infrastructure, Transport and Networks (http://www.yme.gr/index.php?getwhat=1&oid=531&id=&tid=531)

Homepage of the Ministry of the Interior (http://www.ypes.gr/en)


Homepage of the Prime Minister’s Office (http://www.primeminister.gov.gr/english/government/)

IPPC enforcement study (Milieu Ltd, Provisions on penalties related to legislation on industrial installations, 2011, for DG Environment)
Joint Ministerial Decision 43504 on ‘the categories of permits for water use and exploitation of water resources’ (Government Gazette Β’ 1784/2005);

Joint Ministerial Decision 145116 on ‘the measures and conditions under which the reuse of wastewater may be permitted’ (Government Gazette Β’ 354/2011);

Joint Ministerial Decision 150559 regarding the ‘procedures, conditions and requirements for the provision of licences in the case of already existing water use rights’ (Government Gazette Β’ 1440/2011);

Law 1650/1986 ‘for the Protection of the Environment’ (Government Gazette Α’ 160/1986);

Law 2742/1999 on regional (spatial) planning (Government Gazette Α’ 207/1999).

Law 3199/2003 for the “Protection and management of water resources – Harmonisation to Directive 2000/60/EC establishing a framework for Community action in the field of water policy” (Government Gazette (ΦΕΚ) Α΄ 280/2003)

Law 3852/2010 ‘The new architecture of Local Administration and Decentralised Administration – Programme Kallikrates’ (Government Gazette Α’ 87/2010);

Law 4042/2012

Ministerial Decision 13310 on ‘the procedure for issuing licences for the establishment and operation of power plants using renewable energy’ (Government Gazette Β’ 1153/2007);

National legislation and web sites.

Presidential Decree (PD) 51/2007 ‘Defining the Measures and Procedures for the integrated protection and management of water, in conformity with Directive 2000/60/EC’ (Government Gazette Α’ 54/2007);

Sofios et al. 2008: Policy for management of water resources in Greece

WISE Summary Report (on governance, some limited information provided)

Member State Governance Fact Sheet: SPAIN

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Confederación hidrográfica, Hydraulic Administrations of the Autonomous Communities, Regional Governments, Ministry of Agriculture, Food and Environment (including Water Directorate).</td>
<td></td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>National Government, Confederación hidrográfica, Hydraulic Administrations of the Autonomous Communities, Water Island Council</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Confederación hidrográfica, Regional Administrations, Hydraulic and maritime administrations</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Confederación hidrográfica, Hydraulic administrations of the Autonomous Communities, Agricultural Authorities of the Autonomous Communities, regional administrations, Ministry of Agriculture, Food and Environment</td>
<td></td>
</tr>
</tbody>
</table>
### Area of WFD-related responsibility

<table>
<thead>
<tr>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforcement</td>
<td>River Basin Authorities – Water Police, Nature Protection Service of the Civil Guard, Autonomous Communities</td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.

In Spain, River Basin Districts (RBD) can be classified as “intercomunitarias RBD” or “intracomunitarias RBD”. It depends on the delimitation of the RBD: occupying more than one region (called Autonomous Communities) or is completely included inside the territory of one region (inside one Autonomous Community). The first ones are named “intercomunitarias RBD” and the second ones are named “intracomunitarias RBD”.

In Spain, the management unit is the river basin. This management includes all categories of water bodies (river, lakes, groundwater, transitional and coastal).

The main competent authority for “intercomunitaria RBD” is named “Confederación hidrográfica”, it is an autonomous entity and belongs to the Ministry of Agriculture, Food, and Environment.

The main competent authority for “intracomunitarias RBD” is the hydraulic administration of the Autonomous Community, provided that the water competences have been included in its Statute of Autonomy.

For coastal and transitional water bodies, the regional governments are the competent authorities for issuing authorisations for land-based source discharges, for establishing quality standards in these waters as well as for monitoring the water quality (chemical and ecological status). Broadly speaking regional governments are the competent authorities for the management of the protection of the environment. The National Government (Ministry of Agriculture, Food and Environment) carries out a role in the coordination and the establishment of common criteria for ensuring homogenous implementation of these competences in coastal and transitional waters if necessary. The National Government is the authority competent for the preparation of the entire river basin management plans in “intercomunitaria RBD”.

In Spain there are 25 River basin districts, and 9 of them are “intercomunitaria” RBD.

### 1.1 Division of responsibilities

There are different authorities responsible for implementing the requirements of the directive for different water categories (groundwater, lakes, rivers, transitional etc.).

National Government: “Confederación hidrográfica” is an autonomous entity that belongs to the Ministry of Agriculture, Food and Environment, and manages the “intercomunitaria” River Basin District. This entity is responsible for implementing the WFD requirements for all water categories, but for coastal and transitional water bodies the competent regional authority is responsible the establishment of the monitoring
programmes and the issues related to the determination and achievement of the good environmental status (see table below).

Regional Governments: Hydraulic administration of the Autonomous Community in both RBDs, “intercomunitarias” (coastal water bodies) and “intracomunitarias”

The authorities responsible for implementing the requirements of the directive for the different water categories are outlined in the table below (Table 2).

**Table 2: Summary of authorities responsible for implementing the requirements of the WFD for the different water categories**

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Responsible Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>National and regional authorities</td>
</tr>
<tr>
<td>Lakes</td>
<td>National and regional authorities</td>
</tr>
<tr>
<td>Transitional</td>
<td>Galicia: Aguas de Galicia; Principado de Asturias: Consejería de Fomento, Ordenación del Territorio y Medio Ambiente, Dirección General de Medio Ambiente; Cantabria: Consejería de Medio Ambiente, Ordenación del Territorio y Urbanismo, Secretaría General de Medio Ambiente; País Vasco: Agencia Vasca del Agua; Cataluña: Agencia Catalana del Agua, Comunidad Valenciana: Consejería de Agricultura, Pesca, Alimentación y Medio Ambiente, Dirección General del Agua; Baleares: Consejería de Agricultura, Medio Ambiente y Territorio, Dirección General de Recursos Hidricos; Murcia: Consejería de la Presidencia, Dirección General del Agua; Andalucía: Consejería de Medio Ambiente, Dirección General de Planificación y Gestión del Dominio Público Hidraúlico; Canarias: Consejería de Agricultura, Ganadería, Pesca y Aguas, Dirección General de Aguas. Other competent authorities: <em>Ente Publico puertos del Estado</em> (they are responsible in some cases of the monitoring in those HMWBs that are defined for great harbours in coastal and transitional Waters); <em>Capitanías marítimas</em>, with some competences in fighting against marine pollution. Both bodies are included in the Competent Authorities Committee of each RBD.</td>
</tr>
<tr>
<td>Coastal</td>
<td>Galicia: Aguas de Galicia; Principado de Asturias: Consejería de Fomento, Ordenación del Territorio y Medio Ambiente, Dirección General de Medio Ambiente; Cantabria: Consejería de Medio Ambiente, Ordenación del Territorio y Urbanismo, Secretaría General de Medio Ambiente; País Vasco: Agencia Vasca del Agua; Cataluña: Agencia Catalana del Agua, Comunidad Valenciana: Consejería de Agricultura, Pesca, Alimentación y Medio Ambiente, Dirección General del Agua; Baleares: Consejería de Agricultura, Medio Ambiente y Territorio, Dirección General de Recursos Hídricos; Murcia: Consejería de la Presidencia, Dirección General</td>
</tr>
</tbody>
</table>
### Water Category

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Responsible Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>del Agua; Andalucía: Consejería de Medio Ambiente, Dirección General de Planificación y Gestión del Dominio Público Hidráulico; Canarias: Consejería de Agricultura, Ganadería, Pesca y Aguas, Dirección General de Aguas</td>
<td>Other competent authorities: <em>Ente Público puertos del Estado</em> (they are responsible in some cases of the monitoring in those HMWBs that are defined for great harbours in coastal and transitional Waters); <em>Capitanías marítimas</em>, with some competences in fighting against marine pollution. Both bodies are included in the Competent Authorities Committee of each RBD.</td>
</tr>
<tr>
<td>AWBs</td>
<td>National and regional authorities</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>National and regional authorities</td>
</tr>
</tbody>
</table>

In Inter-community river basins:

- The development and monitoring of plans are performed in water planning offices of the hydrographic confederations participating in the Committee of Competent Authorities.
- The management of the public water is performed, depending on the category of the water body:
  - Type river water bodies and lakes: the “Comisarías del Agua” of the River Basin District.
  - Transitional and coastal water bodies by the competent regional authority (See previous table)
  - The reports are organised through the offices of the River Basin Planning and they collect information from all competent authorities.

In Intra-community river basin districts:

- Developing and monitoring plans are made by the competent bodies of the Autonomous Community.
- The management of public water is carried out, regardless of the category of the water body, by the competent body in the Autonomous Community.
- The reports are organised by the unit of information in the autonomous region.

The different reports to the European Commission are organised by the Water Directorate of the Ministry of Agriculture, Food and Environment receiving the same information for the various agencies of the different river basin districts.

Co-ordination among the different authorities for the management of different water categories is formalised.

Coordination is carried out at the technical, senior management and political level.
The objective of the Water National Council (Consejo Nacional del Agua) is the consultation and participation on water and is formed by National Government, Autonomous Communities, Local Administrations, entities responsible for de management of RDB (Confederaciones hidrográficas and Hydraulic administrations of the Autonomous Communities) that are named “Organismos de Cuenca”, professional and economical organisations related to different water uses, unions and business organisations and environmental organisations. One of the main function is to give an inform for each RBMP and for the draft of National Water Plan.

The Water RBD Council (Consejo de Agua de Demarcación) is the organism for the participation and planning. And the Competent Authorities Committee is the cooperation organism.

The objective of the Water RBD Council is to further the information, public consultation and active participation along the water planning process. The Autonomous Communities take part of the Water RBD Council, as well as, National Government, Local Administrations and a representation of users and economic, social and environmental organisations.

The objective of the Competent Authorities Committee is to ensure an adequate cooperation for the execution of water protection standards. One of their functions is to provide information to the Ministry of Food, Agriculture and Environment to be submitted to European Union.

The Directorate General for the sustainability of the coast and the sea (Ministry of Agriculture, Food and environment) maintains an active co-ordination of the regional government activities related to coastal and transitional bodies. This coordination includes technical meetings, guidelines for homogenisation of assessment methods, and assistance in reporting process. This DG is also the responsible (together with the DG of Water in the same Ministry) to be the link between the Commission groups and the competent authorities.

The list of authorities involved in Consejo Nacional del Agua and Consejo de Agua de Demarcacion is described in the law that has created these bodies

1.2 Authorities involved in preparing and approving the RBMPs

“Confederación hidrográfica” is an autonomous entity that belongs to the Ministry of Food, Agriculture and Environment, and manages the “intercomunitaria” River Basin Districts. This entity is responsible for implementing the WFD requirements, including the River Basin Management Plan (RBMP).

Hydraulic administration of the Autonomous Community in each “intracomunitaria” RBD is responsible for preparation of the RBMP.

In Canary Islands the Water Island Council is the entity responsible for the preparation of the RBMP. It depends on the “Cabildo” (traditional institution responsible for the Government of the islands of Canarias).

Coordination mechanisms to deal with multiple authorities:
There are official Bodies for coordination at basin level and national Level: the Consejo Nacional del Agua (Water National Council) and the Consejo de Agua de Demarcacion (Water RBD Council, at basin level, for each one RBD).

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The authorities that request monitoring are described below.

“Confederación hidrográfica” is an autonomous entity that belongs to the Ministry of Food, Agriculture and Environment, and manages the “intercomunitaria” River Basin District. This entity is responsible for implementing the WFD requirements, including the Monitoring Programmes, in continental waters.

For transitional and coastal waters, the regional administrations are the public authorities responsible for the monitoring. They have established their own network of monitoring sites and their own monitoring programmes. The National government through the Ministry of Agriculture, Food and Environment has provided national criteria to coordinate the process. In this line a Spanish guide on the design of monitoring programmes for coastal and transitional waters was published in 2007. In some cases, monitoring in great harbours is carried out by the harbour authority (Puertos del Estado).

Hydraulic and maritime administration of the Autonomous Community in each “intracomunitaria” RBD is responsible for the Monitoring Programmes.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

The same authorities are responsible for all three types of monitoring (surveillance, operational and investigative).

The “Confederación hidrográfica” is responsible for surveillance, operational and investigative monitoring in each “intercomunitaria” River Basin District. Hydraulic administration of the Autonomous Community is responsible for surveillance, operational and investigative monitoring in each “intracomunitaria” RBD.

For coastal and transitional bodies the competent authorities are the regional administrations responsible for the water management issues both for the surveillance, operational and investigative monitoring (for more information on the competent authorities see above).

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Monitoring authorities are generally the same for all water categories. In “intercomunitaria” RBDs, the Regional authority is responsible for transitional and coastal waters while the Confederacion Hidrografica is responsible for the other categories.

3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

**Table 3: Summary of responsible authorities for different directives and policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Main WFD competent authority in “intracomunitaria” RBD. In the case of “intercomunitaria”, there is interaction with regional and local authority and also with the service (company) dealing with the issue.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Usually dealt with by the regional/national authority for agriculture. These authorities are part of the Competent Authorities Committee, but are not the lead authority for coordination of the elaboration of the RBDMP</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Main WFD competent authority in “intracomunitaria” RBD. In the case of “intercomunitaria”, there is interaction with regional and local authority</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Main WFD competent authority in “intracomunitaria” RBD. In the case of “intercomunitaria”, there is interaction with regional and local authority</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Main WFD competent authority in “intracomunitaria” RBD. In the case of “intercomunitaria”, there is interaction with regional and local authority</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>See above (“Division of responsibilities”). The authorities are part of the Competent Authorities Committee, but are not the lead authority for coordination of the elaboration of the RBDMP</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Usually dealt with by the regional/national authority for environment. These authorities are part of the Competent Authorities Committee,</td>
</tr>
</tbody>
</table>
The entities responsible for the management of RDB (Confederaciones hidrográficas and Hydraulic administrations of the Autonomous Communities) are named “Organismos de Cuenca”.

These “Organismos de Cuenca” and the Autonomous Communities can develop a mutual collaboration. The Autonomous Communities are a part of the Government of the “Organismos de Cuenca” (River basin Organisms).

In addition, Conventions, between “Organismos de Cuenca” (River basin Organisms) and Local Administrations or Communities of users, can be adopted.

The Water RBD Council is the organism for the participation and planning. And the Competent Authorities Committee is the cooperation organism.

The objective of the Water RBD Council is to further the information, public consultation and active participation along the water planning process. The Autonomous Communities take part of the Water RBD Council, as well as, National Government, Local Administrations and a representation of users and economic, social and environmental organisations.

The objective of the Competent Authorities Committee is to ensure an adequate cooperation for the execution of water protection standards. One of their functions is to provide information to the Ministry of Food, Agriculture and Environment for being submitted to European Union.

The different authorities involved in each policy have been defined at the transposition of the Directives to the Spanish legislation.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 4).

**Table 4: Summary of responsible authorities for different drivers & sectors**
<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
</table>
| Agriculture     | National and regional authorities  
Environment, Farming, and Food are under the same ministry at national level, but in different secretariats (one for environment, another for farming and a third one for fisheries). |
| Water           | Drinking Water & Wastewater  
RBDMP is prepared by Confederation Hidrografica or Regional Water Authority. The everyday management of the water services is usually undertaken by public or private companies. |
| Energy          | Industry, Energy and Tourism are under the same ministry at national level. – Secretariat of state of Energy deals with energy and mining policy |
| Transport       | Ministry of public works – also responsible for territorial planning, housing, urbanism. |
| Industry        | IPPC  
Industry, Energy and Tourism are under the same ministry at national level. In particular the issue is dealt by the Secretariat of Industry and Small and Medium enterprises.  
Non IPPC  
Industry, Energy and Tourism are under the same ministry at national level. In particular the issue is dealt by the Secretariat of Industry and Small and Medium enterprises. |
| Mining          | Industry, Energy and Tourism are under the same ministry at national level. – Secretariat of state of Energy deals with energy and mining policy |

Because there are different authorities, there is a need for coordination with the main WFD competent authority.

At regional level, there is a tendency to follow on the same type of administrative competencies division. However there are different combinations.

In each River Basin District a Committee of Competent Authorities has been generated, in which there are represented State, Regional and Local Administration.

### 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.
4.1 Formal mechanisms of consultation

The Spanish legislation on water planning provides for the consultation and involvement of stakeholders and the public in the preparation and adoption/review of PHCs\(^{64}\) and of the National Hydrological Plan. However, participation in the implementation is mainly provided for water users.

One of the leading principles for water management in Spain is the participation of water users (Article 14.1 TRLA). Water users are considered as those users having registered rights (concessions) at the Water Registry. These rights holders are mainly water supply companies, industries and farmers. Therefore, according to Spanish law water users are those representing the economic use of water.

In Spain, participation in water planning and management takes place at the CHs in charge of water planning and management, at the Committee of Competent Authorities and at the National Water Council (Consejo Nacional del Agua-CAN) which is an advisory body.

CHs must organise procedures to make public participation effective during the process to adopt river basin management plans\(^{65}\). This includes:

a) public information, consultation and active participation procedures organisation and timetables

b) coordination of the procedure for the strategic environmental assessment of the river basin plan

c) description of the participation methods and techniques to be employed.

The participation provided in the RPH goes from access to information, public consultation to active participation. Provisions of the 2006 Law on Access to Information applies to this process including accessing to information on the preparation of the river basin management plans, especially in what refers to active dissemination by the Administration.

Public consultation takes place in three phases. The public has six months in each phase to provide their comments, as required by the WFD. However, the interested parties\(^{66}\) only have six months to send their comments on the documents during the second and

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\(^{64}\) Article 71.3 RHP provides: public participation shall be guaranteed in the planning process during the previous consultation stage as well as during the development, approval and revision of the plan. The same is provided by Article 84.1 RHP for the PHN.

\(^{65}\) Art. 72 RHP.

\(^{66}\) It is important to emphasise that interested party is a broad concept and includes NGOs according to Law 27/2006. Art. 2.2.

**Interested persons:**

- a) Any natural or legal person complying with any of the requirements provided in article 31 of Law 30/1992, of 26 November, on the Legal Regime of the Public Administrations and of the Common Administrative Procedure.
- b) Any other non-profit legal person satisfying the requirements established by article 23 of this Law.

**Art. 23 Legal Standing**

1. Any legal non-profit persons have standing to sue, as regulated in article 22 if they meet the following requirements:

a) Include among the goals established in their by-laws the protection of the environment or of any of its elements.

b) Have been registered at least two years before suing and have executed all necessary activities to reach the goals of their by-laws.

c) Develop according to their by-laws their activities within a geographical scope affected by the action or administrative omission challenged in the courts.
third phase which is contrary to the WFD. The documents subject to this consultation are:

- first phase (three years before opening the procedure to approve or review the corresponding RBMP): a work programme which includes a timetable, a general study on the river basin district;
- second phase (two years before the opening of the above referred procedure): an interim overview of the significant water management issues identified in the river basin;
- third phase (one year before the opening of the above referred procedure) the draft copies of the RBMP including the sustainability environmental report developed as part of the SEA procedure.

RBAs are comprised of three kinds of governing or administration bodies: the governing, the management and the planning bodies. In the Governing Board and the management bodies the participatory regime is limited to traditional water users and dominated by representatives of the national and regional administration, although the law requires the participation of all parties. Thus, participation in these bodies is restricted to those users having an economic interest. These bodies perform functions related to aspects of the WFD implementation cycle including the implementation of the PHCs. The planning body is the RBD Council (Consejo del Agua de la Demarcación-CAD) which is in charge of fostering information, public consultation and active participation in intercommunity basins. In addition, it can give its opinion on issues of public interest for the RBD, on issues on water protection and on better planning, exploitation and preservation of the water public domain. However, the functions of the Governing Board include preparing the affairs to be submitted to the CAD and proposing revisions of the PHC (Article 28 TRLA). In the case of the planning body, participation is open to other uses (recreational and environmental) but in a limited way. The Administration (national, regional and municipal) is in a dominant position. Water users and environmental defence groups are weakly represented.

Although Spain has not yet adopted the PHCs under the WFD, their preparation is underway. Nevertheless, the CADs were not established until October and November

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67 Art. 79.4 and 80.2.
68 This study is a collection of the work required by article 5 of the WFD: Characteristics of the RBD, review of environmental impacts of human activity and economic analysis of water use.
69 These are: the user’s assembly, exploitation boards, dams commission and public works boards. The Users’ Assembly is comprised of those users participating at the Exploitation Boards. Its main function is to coordinate the exploitation of all water works and of water resources in the whole river basin respecting the existing concessions and users’ rights.
70 Article 35 TRLA.
71 Before the approval of the WFD, the Spanish legislation already provided for the obligation for water planning through PHC. The PHCs in forced were approved in 1998. The only PHC approved under the WFD requirements is the PH for the Catalonian Basins.
2011 when a series of Royal Decrees\textsuperscript{72}, setting for the most part the composition, structure and functioning of the different CADs, were adopted. Royal Decree 1161/2010 of 17 September\textsuperscript{73} added a transitional provision to the Royal Decree approving RPH. This transitional provision provides that the current Water Councils\textsuperscript{74} established in RBDS and the Governing body, in case the Water Council has not been established, shall be the organ in charge of issuing an opinion on the interim overview of the significant water management issues identified in the river basin.

In relation to the implementation of the PHC, the CADs have the following functions\textsuperscript{75}:

- Encouraging cooperation in the exercise of powers relating to the protection of waters that hold the layers of government within the respective river basin.
- Promote the adoption by the relevant public authorities in each river of the measures required to comply with the standards of protection of the revised Water Law.
- Provide the European Union, through the competent organs of the Central Government, under current legislation, information concerning the river basin district required.

In Cataluña, the equivalent to the CADs is the Council for the Sustainable Use of Water (Consejo para el Uso Sostenible del Agua-CUSA).\textsuperscript{76} It is comprised of municipalities, professional associations, ecologist groups, neighbours associations, user and consumer organisations, trade unions, universities, water supply companies, and recreational, industrial and agriculture users. The preparation and approval of the PH for the Catalanian Basin District included public participation.\textsuperscript{77}

The National Water Council (Consejo Nacional del Agua-CAN) is the higher advisory and participation body in the field of water in Spain.\textsuperscript{78} Its functions include issuing its opinion on the National Hydrological Plan before being approved by the Government to be sent to the Legislative Chambers and on the PHCs before being adopted by the Government (Articles 20 TRLA and 10.1.a.and b. Royal Decree 1383/2009). It includes representatives of the Spanish State, the CC.AA, the municipalities, the main professional and economic organisations involved in water use, the most relevant trade unions and business organisations at the State level and environmental NGOs. In this membership the public administration has a dominant position.

\textsuperscript{72} However, the members of these CADs have not been appointed yet. Therefore, they are not working yet.
\textsuperscript{73} Real Decreto 1161/2010, de 17 de septiembre, por el que se modifica el Real Decreto 907/2007, de 6 de julio, por el que se aprueba el Reglamento de la Planificación Hidrológica (BOE núm.227, of 18.09.2010).
\textsuperscript{74} Before the transposition of the WFD in Spanish Law, CHs existed and the CAD was the Consejo del Agua (Water Council). The Water Council has less participatory functions that today have the CADs.
\textsuperscript{75} These functions are listed in the Royal Decrees on their establishment.
\textsuperscript{76} Article 11.8 of Legislative Decree 3/2003, of 4 November, approving the Consolidated Water Law of Cataluña.
\textsuperscript{77} Information available at: http://aca-web.gencat.cat/aca/documents/ca/directiva_marc/esquema_proces_senzill.pdf
\textsuperscript{78} Article 20 TRLA and Article 1 Real Decreto 1383/2009, of 28 de agosto, por el que se determina la composición, estructura orgánica y funcionamiento del Consejo Nacional del Agua (BOE núm.209, of 29.08.2009- Royal Decree 1383/2009, of 28 August, establishing the composition, organic structure and functioning of the National Water Council).
5  Impact of the WFD

5.1 Changes to water governance resulting from the WFD
No new authorities have been created as a result of the WFD. However, a significant change made to existing authorities as a result of the WFD is that the coordination and participation have been made stronger. The benefits of this change are as follows:

- To promote dialogue and mediation strategies for the development of River Basin Management Plans.
- Provide a common scenario among all stakeholders related to water management, highlighting the common interests and creating appropriate channels to deal with conflict.
- Present the findings obtained in relevant forums.
- Involve all local, regional and local authorities in developing the Plan.

5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

6  Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan
The legal effect of the RBMP is regulated: see Articles 90 and 91 of the RPH.
Article 149.1.22 of the Spanish Constitution establishes that the State shall have exclusive competence over the “legislation, regulation and concession of hydraulic resources and development where the water-streams flow through more than one Autonomous Community (CCAA)” (intercommunity river basins). The CCAA therefore can assume exclusive competence over hydraulic resources which are in their integrity within the territory of one CCAA. In addition, according to Article 148.1.10 of the Constitution, the CCAA can assume competence in the area of planning, construction and exploitation of water projects, canals and irrigation of interest to the CCAA as well as mineral and thermal waters. Therefore, in the case of inland waters, the Constitution differentiates between those bodies of water running through or shared by two or more CCAA, and those exclusively located within one CCAA. In the first case, intercommunity river basins, the competence for water management is in the hands of the Central administration; in the second case, intra-community river basins are in the hands of the CCAA if they assume exclusive competence. However, water planning is under the State competence since it holds the power to establish the basis and to coordinate the general planning for economic activity provided by Article 149.1.13 of the Constitution. Based on this, Article 17.a) of the TRLA stipulates that the Spanish State (Spanish Central Administration) holds the competence for hydrological planning. In some instances the case of Cataluña is mentioned when relevant.

Spain has a long tradition on water resources planning although the plans in force adopted by Royal Decree 1664/1998, of 24 July, approved and developed by several orders of 13 August and 6 September 1999 mainly aiming at allocating water resources to uses.

In Spain, water planning takes place through the Hydrological Basin Plan (Plan Hidrológico de Cuenca-PHC) and the National Hydrological Plan (Plan Hidrológico Nacional). The RBMP is the PHC prepared for each river basin district. In addition, Spain counts with the National Hydrological Plan, which among other things, includes the necessary measures to coordinate all the hydrological basin plans, the solutions to the alternatives included in those plans and the foreseen water transfers among the different river basin districts and their conditions (Article 45, TRLA). Both instruments are public and binding according to Articles 40.4, TRLA and 90.1 RPH.

The PHC and their reviews for intercommunity basins are prepared by the River Basin Authority called Hydrographic Confederation (Confederación Hidrográfica-CH) and for intracommunity basins by the competent water administration (Article 41.1. TRLA and Article 71 RWP). The PHCs are adopted by the Government through a Royal Decree which is published in the Spanish Official Journal (Articles 40.5 TRLA and 83 RPH).

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80 Article 40.3 TRLA.
81 In principle, water transfers affect the status of water bodies. For this reason, they are contrary to the non-deterioration principle provided by the WFD.
82 The intercommunity CHs are: CH of Guadalquivir, CH of Segura, CH of Júcar, CH of Miño-Sil, CH of Cantábrico Oriental, CH of Cantábrico Occidental, CH of Duero, CH of Tajo, CH of Guadiana, CH of Ebro.
83 RBAs of the intracommunity river basins are: Agencia del Agua de Cataluña (Catalonian Water Agency), Aguas de Galicia (Waters of Galicia), Agencia Andaluza del Agua (Andalucia Water Agency), Agencia Vasca del Agua (Basque Water Agency), Agencia Balear del Agua y la Calidad Ambiental (Balearic Water Agency and of Environmental Quality), Consejo Insular del Agua de Gran Canaria (Canary Island Water Council) and Consejo Insular de Aguas de Tenerife (Tenerife Island Water Council).
84 Title II of the Regulation on Water Planning entitled “Preparation and Approval of Hydrological Plans” regulates in detailed the procedure for their approval, including public participation which will be referred to in the answer to the next question.
The PHCs following the WFD have not been approved yet in Spain\textsuperscript{85}. Only the PHC for the Cataluña RBD has been approved by Royal Decree 1219/2011, of 5 September, approving the RBMP for the Cataluña RBD.\textsuperscript{86}

It is important to highlight that in spite of what the Law says, the Royal Decrees are only an approval act. They do not contain the whole text of the PHCs. Article 81 of RHP provides that the structure of PHCs is comprised of the memory and the normative part. The normative part includes the content of the PHCs having a legal character: identification and delimitation of surface water bodies, reference conditions, designation of artificial and heavily modified water bodies, identification and delimitation of groundwater bodies, uses priority and compatibility, environmental flows regime, definition of the exploitation, distribution and resources reservation systems, definition of natural river reserves, special protection regime, environmental objectives and temporary deterioration of water bodies, conditions for new modifications or alterations and organisation and procedures to make public participation effective. According to this provision, we consider that only the normative content is considered to be included in the Royal Decree. Under the PHCs in force, the Royal Decree approving those plans was just an approving act and Ministerial Orders were passed later on to publish the normative content of the plans.\textsuperscript{87} With the RPH, the expert considers that it will not be necessary to pass a Ministerial Order to publish the normative content. Nevertheless, it will be necessary to wait until the approval of the new PHC to see whether this interpretation is correct.

The National Hydrological Plan is prepared by the Ministry for Agriculture, Food and Environment cooperating with the ministerial departments having competences related to water resources (Articles 42.2. TRLA and 85.1. RPH) and it is adopted by the Spanish Legislative Chambers (the Parliament and the Senate) through a Law (Articles 45.1. TRLA and 86.6 RWP) which is published in the Spanish Official Journal (BOE). The whole text of the National Hydrological Plan is published in the Law.\textsuperscript{88}

The PoM are coordinated and integrated in the PHCs (Articles 41.2. TRLA, and 71.2 RPH). However, the PHC only includes a summary of the PoMs. However, PoMs are not part of the normative content of the PHCs. Therefore, PoMs are not part of the Royal Decree approving PHCs.

6.1.1 Legal effect

As already explained, the whole content of the PHCs is not published as part of the Royal Decree approving them. Only their normative content is considered to be part of the Royal Decree.

In Spain public administrations hold regulatory power which allows them to pass norms with a regulatory status. These norms are subordinate to legal acts and take the form of regulations, decrees or instructions. The regulatory acts must respect the provisions

\textsuperscript{85} The Spanish Minister for Agriculture, Food and Environment has stated recently that the new PHCs will not be ready until September 2013.


\textsuperscript{87} One example is the Orden of 13 de agosto de 1999 por la que se dispone la publicación de las determinaciones de contenido normativo del Plan Hidrológico de Cuenca del Duero, aprobado por el Real Decreto 1664/1998, de 24 de julio (Order of 13 August 1999 providing for the publication of the normative content of the Duero PHC, approved by Royal Decree 1664/1998) available at: http://www.boe.es/boe/dias/1999/08/24/pdfs/A31937-31948.pdf.

contained in legal acts. According to the Spanish Constitution, the Government holds regulatory power. Law 50/1997, of 27 November, on the Government provides the hierarchy of regulatory instruments: in first place are those approved by Royal Decree of the Government or of the Council of Ministries and in second place are those approved by Ministerial Order. This implies that the National Hydrological Plan (PHN) is hierarchically above the Hydrological Basin Plan (PHC): \textit{PHCs shall be suspended in those aspects where they are in contradiction with the National Hydrological Plan.}\footnote{Article 90.4 RPH.}

In accordance with Article 5.j of Law 50/1997, the Council of Ministries can adopt programmes, plans and guidelines binding to all organs of the General Administration of the State. The fact that this content is not published in the Official Journal could lead to a conclusion that the content is not legally binding in spite of what is provided by Articles 40.4, TRLA and 90.1 RPH.

Nevertheless, it is also necessary to take into consideration the First Final Provision of RPH entitled “competence pillar”. Its first paragraph enumerates a series of articles considered to be of a basic character. These are established in light of Article 149.1.13 of the Constitution which reserves to the State the power to establish the basis and coordinate the general planning for economic activity, including Article 1 which sets out the objectives of water planning. The second paragraph of the First Final provision also lists a series of its articles considered to be of basic character approved in light of Article 149.1.23 CE. This Article grants the State the power to establish the basic legislation in the field of environmental protection without prejudice to the power of the CC.AA to establish additional protection measures. Among those articles are Articles 35 to 39 which provide for environmental objectives and Articles 44 and 43 which provide for the programme of measures. Finally, the third paragraph of the Final Provision establishes that the rest of the articles in this regulation are approved in light of Article 149.1.22 of the Constitution. This article grants the State the power to establish the legislation, planning and concessions on water resources and exploitation in relation to intercommunity basins. The Constitutional Court affirmed in 1988 that even in the case of intracommunity basins the CC.AA could not forget the State basic legislation in the field of administrative contracts and concessions promulgated in light of Article 149.1.18 of the Spanish Constitution.\footnote{Constitutional Court Ruling 227/1988 of 29.11.1988.}

In light of this First Final Provision, as the contents of the PHCs are all of a basic character, CCAA are bound to respect them regardless of whether their content is published in the official journal.

As mentioned above, the RHP provides that the environmental objectives are part of the normative content of the PHCs.\footnote{Article 81.b. RPH.} This means that environmental objectives are part of the Royal Decree approving the PHCs and therefore are legally binding. These objectives bind the authorities but not directly the individuals. When the administration grants an authorisation or a concession these shall be subject to the environmental objectives provided in the PHCs.

\textbf{6.1.2 Legal status in relation to individual decisions}

As mentioned above, the RPH requires that administrative resolutions in the field of water must be in accordance with the PHCs and this includes the environmental
objectives. Such resolutions would include hydropower installations, abstractions for agriculture and industrial installations. This obligation applies also to existing authorisations/concessions. In fact, Title IV of the TRLA is devoted to the use of the public water domain. In particular, its Chapter III provides for water concessions and authorisations. This Chapter provides that any private use of water with some exceptions e.g. the use of rain water by the owner of the land where rain falls requires a concession (Article 59.1.). Any concession shall be granted according to the provisions of the PHCs with a temporary limit of 75 years at the most (Article 59.4). It is important to highlight that this Chapter also provides for environmental flows intimately linked to the attainment of good ecological status. This requirement on environmental flows was provided under Spanish Law before the adoption of the WFD. Environmental flows are not considered as a water use but as a constraint imposed to all water exploitation (Article 59.7), the only water use which has precedence over this constraint is the supply of water for human consumption. The granting of a concession does not exempt the recipient to obtain any other type of authorisation or licence required by other laws to build the facilities and to carry out the activity (Article 59. 8).

Concessions are registered in the Water Registry which is managed by the CH. The CH shall register the concessions and any other title providing for the right to use water (Article 80 TRLA and Article 189 RDPH).

CHs when granting concessions and authorisations shall adapt the necessary measures to make compatible the use of water with respect to the environment and to guarantee the environmental flows and environmental demands provided in the PHCs (Article 98 TRLA).

Article 60 of TRLA provides for an order of precedence for water use. When granting concessions it is necessary to respect the order of precedence provided in the PHC (the uses priority is part of the normative content) taking into consideration the requirements for the protection and conservation of the resource and of its environment. Any concession is subject to eminent domain in favour of other use which is above in the order of precedence set by the PHC, in accordance with the legislation in this field. If the PHCs do not specify an order of precedence, that order shall be:

1. Supply to human settlements including the supply to industries with low water consumption installed in human settlements and connected to the municipal network.
2. Irrigation and farming uses.
3. Industrial uses for energy production.
4. Other industrial uses not included in the previous uses.
5. Aquaculture.
6. Recreational Uses
8. Other uses.
The order which PHCs may establish must respect the supremacy of the use to supply human settlements. This use is closely related to land planning. Article 14.1.a) of the RPH establishes very strict criteria to take into consideration at the time of fixing the scenario for future demands for the use to supply human settlements in the PHCs. This is very important taking into consideration the extensive urbanisation that took place along the Spanish Mediterranean coastline.\(^{92}\)

As the RBMPs have not been approved yet there is no specified timeline to make compatible the individual authorisations/concessions resolutions.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Law 54/1997, of 27 November on the Energy Sector\(^{93}\) regulates the activities directed to the supply of electricity including its generation. It provides for the distribution of competences in this sector. According to Article 3.2.a), the Central State authorises the electricity installations when the exploitation of its resources benefits more than one CCAA, or if the transportation or distribution of the energy goes out of the territory of one CCAA. In this case the **Directorate General for Energy Policy and Mining from the Ministry of Industry, Tourism and Trade** is the competent authority to issue the authorisation. According to article 3.3.c, the Autonomous Communities authorises the electricity installations when its output is only used in the territory of one CC.AA or when the transportation or distribution of the energy output only takes place within the territory of one CC.AA.

Article 22 of Law 54/1997 provides that when the establishment of energy production units requires authorisation or concession in accordance with TRLA that law shall apply. It also provides that when the State is competent for authorising production units and for granting water concessions from an energy and hydraulic point of view it will be possible to establish a sole procedure.

Royal Decree 916/1985, of 25 May, establishes a short procedure to grant concessions and authorisations to install, enlarge or adapt hydroelectric uses with a power below 5,000 KW. These concessions need to be granted before authorisations to build a hydropower facility may be given.\(^{94}\) The Ministry for Agriculture, Food and the Environment is competent to grant water concessions for hydropower use with power above 5,000 KW.\(^{95}\) The CHs are competent to grant them for those with power below

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\(^{94}\) Real Decreto 916/1985, de 25 de mayo, por el que se establece un procedimiento abreviado de tramitación de concesiones y autorizaciones administrativas para la instalación, ampliación o adaptación de aprovechamientos hidroeléctricos con potencia nominal no superior a 5,000 KVA. Available at: http://noticias.juridicas.com/base_datos/Admin/rd916-1985.html.

\(^{95}\) Orden de 3 de febrero de 1989 sobre tramitación de expedientes de concesiones y autorizaciones relativas a aprovechamientos hidroeléctricos con potencia superior a 5,000 kva.
5,000 KW. The competent body must issue a report on the compatibility of the requested concession with the PHC (Article 5, first sentence). If the Project affects the PHC it will be noticed to the petitioner announcing him that the concession might be subject to conditions or even denied. This notification provides a ten days period for the petitioner to show whether he is still interested in the concession (Article 5, second sentence). Therefore, the granting of a concession for hydropower installations is subject to the provisions of the PHCs. All water concessions are granted for 75 years at the most.

**Abstraction for agriculture**

Article 61 of TRLA requires that when a water concession is for irrigation the title holder of the concession shall be also the owner of the land to be irrigated except in the case of concessions for irrigation granted to users communities which is a collective concession. A collective concession is granted to a group of owners of lands who create a users community which is called by Article 81 TRLA “comunidad de regantes” (irrigation community).

Meanwhile Article 62 of TRLA allows granting water concessions for irrigation in a public service regime to companies or individuals who do not hold the ownership of the land if the petitioner shows that at least half of the owners agreed.

As mentioned, all water concessions must be in accordance with the PHC (Article 59.4 TRLA). Similarly to hydropowers, water concessions for abstraction for agriculture are granted for 75 years at the most.

**IPPC and other industrial installations**

Any discharge to water requires an authorisation (Article 100 TRLA). The administrative authorisations on the establishment, modification or moving of installations or industries which produce or may produce discharges shall be granted under the condition that they obtain the corresponding authorisation for water discharge (Article 103 TRLA). The discharge authorisations are in force for 5 years, and this period is renewable if the quality norms and environmental objectives required are complied with (Article 101.3 TRLA). Otherwise, the authorisations can be modified or reversed. Article 104.1.c) of TRLA includes among the cases to modify a discharge authorisation to **adequate the discharge to the norms and quality objectives applicable in each case and in particular to the norms and quality objectives provided in the PHCs for each river, section of a river, aquifer or waterbody**.

Article 19 of Law 16/2002 of 1 July on Integrated Prevention and Pollution Control (IPPC Law) requires that for the activities subject to the integrated environmental permit which need a discharge authorisation in intercommunity basins, the CH issues a report on the admissibility of the discharge and, if it is admissible, the report must determine the characteristics and corrective measures to preserve the good ecological status of water bodies. This report is compulsory and legally binding. If the report considers that the discharge to water is inadmissible the competent body to issue the integrated permit shall deny the IPPC permit. In the case of the intracommunity basins of Catalonia, the Agencia Catalana del Agua is the body in charge of issuing this report.

As seen above, Article 98 TRLA subjects the granting of an authorisation for discharges to water to respect the environmental demands included in the PHCs.
For other industrial installations which do not fall under the IPPC regime, any discharge to water requires an authorisation (Article 100 TRLA).

6.2 Relationship with other sectoral policy plans

Article 10 of Law 10/2001, of 5 July on the National Hydrological entitled “coordination with other sectors policies” provides that water policy is at the service of the sector specific strategies and plans which Public Administrations establish on the different uses. These strategies and plans are without prejudice to the rational and sustainable management of water to be applied by the Ministry of Agriculture, Food and the Environment or by the competent water authority which shall condition any authorisation, concession or future infrastructure. The same is provided by Article 40.2 TRLA. Therefore, it can be inferred that water policy conditions sector specific policies.

Article 68 of the RPH provides that the coordination of the PHCs shall be carried out by the National Hydrological Plan taking into consideration the diverse sector specific planning, in particular the agricultural, energy, land and urban planning as well as the protection of the environment and nature, all this within the frame of the State general policy and its economic planning.

Article 25.4 of TRLA provides that CHs must issue a preliminary report on the acts and plans that CC.AA have to approve when executing their powers in the field of the environment, land and urban planning, protected areas, fisheries, mountains, irrigation and public works of regional interest. This report is required when those acts and plans affects the regime and use of inland waters or in case of uses allowed in the water public domain lands and in the areas under easement. The CHs shall take into account the hydrological planning and the sector specific plans approved by the Government. When the acts or plans of the CC.AA or municipal entities involve new demands on water resources the report of the CH shall expressly analyse the availability of water resources to satisfy those demands. If the CH does not issue the report in the established deadline it shall be understood as non-favourable. The CH report shall be also required for acts and municipal ordinances approved by municipal entities unless those acts or ordinances are adopted to apply planning instruments which were already subject to a report by the CH. Article 71.4 of the RPH provides that PHCs shall be prepared in coordination with the different sector specific plans which may affect them in what respect the uses of water and the uses of the land and specially with what the irrigation and other agricultural uses planning provides.

During the present planning process, the environmental report of the SEA has always introduced a chapter on the relationship of the sector planning with the hydrological planning.

Article 15 of the Royal Legislative Decree of 2/2008, of 20 June, approving the Consolidated Text of the Land Law provides that the instruments for land and urban planning are subject to EIA and to SEA. It requires that during the consultation phase of these instruments a report, among others, from the CH on the availability of water resources to satisfy the new demands and on the protection of the water public domain is requested.

The report which the CHs must issue is not legally binding however the Supreme Court has already ordered the suspension of acts or urban plans approved because there is no enough available water according to reports of the CHs (SC rulings of 6 July 2009 and of
1 February 2010). In addition, the Constitutional Court in its ruling num. 133/2006 of 27 April has ruled that the report is binding when it is non favourable. For this reason the Spanish Ombudsman maintains that although the report of the CH is not legally binding from a formal point of view it is binding from a material point of view.

The Law on the National Hydrological Plan established the obligation for PHCs to develop Drought Management Plans (Article 27.2). These Plans were developed in 2006 and approved in 2007 by Ministerial Order. These plans are considered by the RHP as a specific plan of the PHC (Article 62.1).

Article 14 of Royal Decree 903/2010, of 9 July, on assessment and management of flood risks provides for the coordination of PHCs with the flood risk management plans. The later must include a summary of the water status and environmental objectives of every water body with flood risk significant potential. In addition, this Royal Decree provides for the coordination of flood risk management plans with other plans. Thus, the land and urban planning instruments cannot include determinations incompatible with the content of flood risk management plans.

As seen, the relationship between PHCs and other plans is regulated. However, that regulation only provides for the coordination of the hydrological plans with the sectors planning. But as mentioned, the obligation to count with a report issued by the CH places hydrological planning on a higher level than the other plans. There is no regulation on revising existing plans when the RBMP is adopted, and the current PHN or PHCs contain any provisions on this.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

The responsible authority for issuing the permits required for abstractions, impoundments, point source discharges and hydromorphological alterations is “Confederación hidrográfica” in each “intercomunitaria” RBD. For “intracomunitaria” RBD the competent authority is the Hydraulic administration of the Autonomous Community.

For the aspects related to diffuse sources, specifically the agrarian pressures, the competent authorities are the Agricultural Authorities of the Autonomous Community.

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For coastal and transitional waters, the regional administrations are responsible for licensing direct land-based discharges (from land to the sea). The specific regional administrations for each region are listed above ("Division of Responsibilities").

The hydromorphological alterations, and the installation of any kind of infrastructure in the public coastal domain (where there are included all the CW and TW) has to be authorised by the D.G. for the Sustainability of the Coast and the Sea of the national government, following the shores act (Ley de costas).

For inland waters, National or Regional authorities are responsible for issuing permits, depending on whether the river basin is 'intracomunitaria' or 'intercomunitaria'.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

There are different authorities responsible for issuing permits for different water uses, as outlined in the table below (Table 5).

**Table 5: Permits and the Competent Authorities**

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>The responsible authority for issuing the permits required for abstractions, impoundments, point source discharges and hydromorphological alterations is “Confederación hidrográfica” in each “intercomunitaria” RBD and the Hydraulic administration of the Autonomous Community for “intracomunitaria” RBD.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>As above (abstractions).</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>Same as above for Rivers and Lakes. For coastal and transitional waters, the regional administrations are responsible for licensing direct land-based discharges (from land to the sea). The specific regional administrations for each region are listed in the section “Division of Responsibilities”.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>For the aspects related to diffuse sources, specifically the agrarian pressures, the competent authorities are the Agricultural Authorities of the Autonomous Community.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>For rivers and lakes the competent authority is the same as for water abstractions. The hydromorphological alterations, and the installation of any kind of infrastructure in the public coastal domain (where there are included all the CW and TW) has to be authorised by the D.G. for the Sustainability of the Coast and the Sea of the Ministry of Agriculture, Food and Environment,</td>
</tr>
</tbody>
</table>
Because different authorities are responsible for permitting for the different water users, there is a requirement for coordination/communication. Details of communication and coordination are provided in the section “Division of responsibilities”.

7.2 Permit applications

The process for application for a permit is described below, using wastewater permission as an example.

1) Applicant submits completed application forms of the declaration of discharges regulated in ORDEN MAM/1873/2004

2) Regulatory authority (RA) analyses the information and, if necessary, sends a request to the applicant for rectification and improvement of the submitted information

3) RA elaborates the Previous Report with the preliminary conditions to fix in the wastewater permit. The Previous Report must contain the study of the compatibility of the emission limit values (ELV) with the environmental objectives, i.e., environmental quality standards (EQS). The ELS are fixed according to best available technologies.

4) RA asks for reports from different regional administration bodies according to their responsibilities: health, fish, biodiversity, hydrological planification, etc. Additionally submits the procedure to public information.

5) RA elaborates the permission based in the "Previous Report" and taking into account the collected reports.

6) RA sends the proposal of permission to the applicant.

7) RA elaborates the permission.

The deadline for the procedure must be less than 12 months.

There are no differences in the water permitting process for different permit types (e.g. abstractions, impoundments, point source discharges, etc.) or scales.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

7.3 Enforcement of permits: authorities

The water police, which are part of river basin authorities, have broad inspection competences that cover all obligations related to water legislation (these functions are established in the Water Law). Police functions include: inspection and monitoring of public waters; inspection and enforcement of the conditions of licenses and
authorisations relating to public waters; conducting appraisals; and providing information on flood control and water quality.

The water police are supported by the Nature Protection Service of the Civil Guard (Guardia Civil).

In intra-Community RBDs (those within a single Autonomous Community, i.e. region), the Autonomous Communities have executive power over the public water police and over procedures resulting from their action (Royal Decree-Law 12/2011 of 26 August, amending the Consolidated Water Act).

The responsibility for Inter-Community RBDs lies with the national government.

The Autonomous Communities (CCAA) are in charge of the management of most other environmental matters, including inspection and enforcement of environmental legislation, including IPPC. (Milieu IPPC Study)

The water police are part of River Basin Authorities, which may be national or regional (Autonomous Community) levels.

The Autonomous Communities (regions) are in charge of water police in intra-Community RBD.

In May 2012, that the government has approved a Royal Decree that establishes that the State will assume "directly" the competencies of the water police in the RBD crossing more than one Autonomous Community.

See the consolidated version of the Legislative Royal Decree on Water:


There are separate authorities responsible for enforcement of different economic sectors. The River Basin Authorities are responsible for permitting and enforcement for all water uses, while the Autonomous Communities (CCAA) are in charge of the management of most other environmental matters, including inspection and enforcement of environmental legislation, including IPPC. (Milieu IPPC Study)

There are no separate authorities responsible for the enforcement of different types of water-related permits. For each RDB, the authority for enforcement of the different types of permits is the same.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
No information found on coordinating committees or memoranda of understanding.

Regarding data sharing, the central government has established the Alberca programme, an information tool that allows updates of the Water Records of the Hydrographic Confederations; characterisation of all uses of water currently declared by the owners, including the review of the characteristics of the uses listed in the previous General Register Book on Land Use and Public Waters (sixth transitional provision of TRLA);
homogenisation of administrative procedures for processing records; modernisation of processing tools, including computerised data, and incorporation of mapping as a basic element of the procedure, within the framework of "Plan for the modernisation of the Ministry of Environment and its autonomous bodies." This tool allows the introduction of all data in a computer system, common to most of the Hydrographic Confederations.

It is not clear, however, if this project is concluded, how many confederations are connected to it, and if the Autonomous Communities are connected to it.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are not separate entities. The enforcement authorities - water police - are part of the RBD Authority (management). Although each Autonomous Community is responsible for the law enforcement on environment in their Community, in the case of water the national government (the RBD authority) directly enforces water law in intercommunity RBDs.

7.5 Enforcement actions

7.5.1 Number of inspectors
Information not found for Spain as a whole.

Number of water police in the Duero RBD: 61 at the end of 2010

7.5.2 Number of inspections
No information found.

7.5.3 Number of infringement actions
The total number of infringement actions related to water permits initiated in Spain in 2011 is 5841.

7.5.4 Other mechanisms (in addition to inspections)
No information found.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
Behaviours that can result in the opening of disciplinary proceedings are classified as infringement on Article 116.3 of the Consolidated Water Act, under which are treated:

a) The actions that cause damage to property of public water and waterworks.
b) The derivation of water from streams and groundwater delivery without the corresponding license or authorisation when required.
c) Breach of the conditions imposed on concessions and authorisations referred to in this Act, without prejudice to its expiration, revocation or suspension.
d) The execution, without due administrative authorisation, of structures, works, sowing or planting in public waterways or in areas subject to a legal limitation to their destination or use.
e) The invasion, occupation or the extraction of gravel from riverbeds without proper authorisation.
f) Discharges that may impair water quality or drainage conditions of the receiving stream, made without authorisation.
g) Breach of the prohibitions under this Act or omission of acts to oblige.
h) The opening of wells and installation on the same instrument for the extraction of groundwater without having previously granted or authorised by the River Basin for the extraction of water.

Liable for the above offenses are the following natural or legal persons: The owner of the land, the promoter of the abstraction, the entrepreneur who operates the facility and the technical director of the facility.

Offenses may be qualified as minor, less serious, serious or very serious, according to their impact on the condition and use of public water, its impact on security of persons and goods and the circumstances of responsible, degree of malice, participation and benefit obtained, and the impairment of the quality of the resource.

- Minor offenses, a fine of up to 6,010.12 euros
- Less serious offenses, a fine of 6010.13 to 30050.61 euros
- Serious offenses, a fine of 30,050.62 to 300,506.06 euros
- Very serious offenses, a fine of 300,506.06 to 601,012.10 euros

According to the amount of the fine, the entity taking the decision is:

- Up to 30,050, 61 € - RBD authority
- From € 30,050.62 to € 300,506.06 - Minister responsible for environment
- From € 300,506.06 to € 601,012,10 - THE COUNCIL OF MINISTERS.

Criminal sanctions

Under Spain’s Criminal Code (Art. 343.1), pollution which causes or is likely to cause death or serious injury or substantial damage to the quality of water can be the subject of penalties from 6 to 12 years and the prohibition to exercise a professional activity or to serve in public office for a period of 6 to 10 years.

Related legislation

- Law 30/92 of 26 November on the Legal Regime of Public Administrations and Common Administrative Procedure
- Consolidated Water Act, approved by Royal Legislative Decree 1/2001 of 20 July.
- MAM/85/2008 Order of 16 January, establishing the technical criteria for the assessment of damage to public water and standards for sampling and analysis of waste water. groundwater without proper license or authorisation when required.

**7.6.2 Sanctions normally brought for water violations**

As indicated above (“Enforcement actions”), over 5000 administrative fines were brought for water violations in 2011.

The sanctioning procedure is always initiated ex officio, by agreement of the competent body, either spontaneously or as a result of higher order, a reasoned request by other bodies or complaint.
7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
No information found.

7.7.2 Weaknesses of the system of inspections and enforcement
No information found.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is not thought that the RBMPs have strengthened enforcement. No further information found.
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Cabildo de La Gomera
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Cabildo de Tenerife
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tabid/141/Default.aspx
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Confederación Hidrográfica del Duero
Confederación Hidrográfica del Ebro
Confederación Hidrográfica del Guadalquivir
Confederación Hidrográfica del Guadiana
Confederación Hidrográfica del Júcar
Confederación Hidrográfica del Miño-Sil
Confederación Hidrográfica del Segura
Confederación Hidrográfica del Tajo
Demarcación Hidrográfica Baleares
http://www.fomento.gob.es/MFOM/LANG_CASTELLANO/INFORMACION_MFOM/ORGANIZ
ACION_Y_FUNCIONES/
IPPC ENFORCEMENT STUDY (MILEU LTD, PROVISIONS ON PENALTIES RELATED TO
LEGISLATION ON INDUSTRIAL INSTALLATIONS, 2011, FOR DG ENVIRONMENT)
www.magrama.gob.es/es


Responsables del Agua en Andalucía.

Spanish Water Law

- DECRETO 31/2009, de 24 de febrero, por el que se delimita el ámbito territorial del Distrito de Cuenca Hidrográfica o Fluvial de Cataluña y se modifica el Reglamento de la planificación hidrológica, aprobado por el Decreto 380/2006, de 10 de octubre.

- DECRETO 357/2009, de 20 de octubre, por el que se fija el ámbito territorial de las demarcaciones hidrográficas de las cuencas intracomunitarias situadas en Andalucía.

- La Constitución española y los Estatutos de Autonomía


- Ley 9/2006, de 28 de abril, sobre evaluación de los efectos de determinados planes y programas en el medio ambiente.

- LEY 9/2010, de 30 de julio, de Aguas para Andalucía.

- Ley 9/2010, de 4 de noviembre, de aguas de Galicia.

- Ley 10/2001 de 5 de julio del Plan Hidrológico Nacional

- Ley 11/2005 de 22 de junio por la que se modifica la Ley 10/2001, de 5 de julio, del Plan Hidrológico Nacional

- Ley 22/1988, de 28 de Julio, de Costas (artículos 51, 84 y 114)97

- Ley 27/2006, de 18 de julio, por la que se regulan los derechos de acceso a la información, de participación pública y de acceso a la justicia en materia de medio ambiente.

- Ley 62/2003, de 30 de diciembre, de medidas fiscales, administrativas y del orden social que incluye, en su artículo 129, la Modificación del texto refundido de la Ley de Aguas, aprobado por Real Decreto Legislativo 1/2001, de 20 de julio, por la que se incorpora al derecho español la Directiva 2000/60/CE, por la que se establece un marco comunitario de actuación en el ámbito de la política de aguas.

- Orden ARM/2656/2008, de 10 de septiembre, por la que se aprueba la Instrucción de Planificación Hidrológica, y su modificación por la Orden ARM/1195/2011, de 11 de mayo.

- ORDEN MAM/1873/2004, de 2 de junio, por la que se aprueban los modelos oficiales para la declaración de vertido y se desarrollan determinados aspectos

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97 This Law is currently under modification. The draft of the new Law was presented to the Spanish Council of Ministers on 13th July 2012.
relativos a la autorización de vertido y liquidación del canon de control de vertidos regulados en el Real Decreto 606/2003, de 23 de mayo, de reforma del Real Decreto 849/1986, de 11 de abril, por el que se aprueba el Reglamento de Dominio Público Hidráulico, que desarrolla los Títulos preliminar, I, IV, V, VI y VII de la Ley 29/1985, de 2 de agosto, de Aguas.


- Real Decreto-ley 17/2012, de 4 de mayo, de medidas urgentes en materia de medio ambiente.

- Real Decreto 60/2011, de 21 de enero, sobre las normas de calidad ambiental en el ámbito de la política de aguas (artículo 3.17).

- **Real Decreto 117/1992**, de 14 de febrero, por el que se actualiza la composición del Consejo Nacional del Agua.

- **Real Decreto 125/2007**, de 2 de febrero por el que se fija el ámbito territorial de las demarcaciones hidrográficas, y su modificación por el **Real Decreto 29/2011**, de 14 de enero.

- **Real Decreto 126/2007**, de 2 de febrero por el que se regulan la composición, funcionamiento y atribuciones del Comité de Autoridades Competentes de las demarcaciones hidrográficas con cuencas intercomunitarias, y su modificación por el **Real Decreto 1626/2011**, de 14 de noviembre.

- Real Decreto 344/2012, de 10 de febrero, por el que se desarrolla la estructura orgánica básica del Ministerio de Industria, Energía y Turismo.

- Real Decreto 401/2012, de 17 de febrero, por el que se desarrolla la estructura orgánica básica del Ministerio de Agricultura, Alimentación y Medio Ambiente.

- **Real Decreto 849/1986**, de 11 de abril, por el que se aprueba el Reglamento del Dominio Público Hidráulico, que desarrolla los títulos preliminar I, IV, V, VI y VII de la Ley 29/1985, de 2 de agosto, de Aguas.

- **Real Decreto 907/2007**, de 6 de julio, por el que se aprueba el Reglamento de la Planificación Hidrológica.

- Real Decreto 927/1988, de 29 de julio, por el que se aprueba el reglamento de la Administración Pública del agua y de la planificación hidrológica, en desarrollo de los títulos II y III de la Ley 29/1985, de 2 de agosto, de Aguas.

- Real Decreto 1364/2011, de 7 de octubre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la demarcación de la parte española de la Demarcación Hidrográfica del Duero.

- Real Decreto 1365/2011, de 7 de octubre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la demarcación de la parte española de la Demarcación Hidrográfica del Miño-Sil.
• Real Decreto 1366/2011, de 7 de octubre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la demarcación de la parte española de la Demarcación Hidrográfica del Ebro.

• Real Decreto 1383/2009, de 28 de agosto, por el que se determina la composición, estructura orgánica y funcionamiento del Consejo Nacional del Agua.

• Real Decreto 1389/2011, de 14 de octubre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la demarcación de la parte española de la Demarcación Hidrográfica del Guadiana y por el que se modifica el Real Decreto 650/1987, de 8 de mayo, por el que se definen los ámbitos territoriales de los organismos de cuenca y de los planes hidrológicos.

• Real Decreto 1541/1994 de 8 de julio, por el que se modifica el Anexo número 1 del reglamento de la Administración Pública del Agua y de la Planificación Hidrológica, aprobado por el Real Decreto 927/1988, de 29 de julio.

• Real Decreto 1598/2011, de 4 de noviembre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la Demarcación Hidrográfica del Guadalquivir y por el que se modifica el Real Decreto 650/1987, de 8 de mayo, por el que se definen los ámbitos territoriales de los organismos de cuenca y de los planes hidrológicos.

• Real Decreto 1626/2011, de 14 de noviembre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la Demarcación Hidrográfica del Cantábrico Occidental y por el que se modifica el Real Decreto 126/2007, de 2 de febrero, por el que se regulan la composición, funcionamiento y atribuciones de los comités de autoridades competentes de las Demarcaciones Hidrográficas con cuencas intercomunitarias.

• Real Decreto 1627/2011, de 14 de noviembre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua del ámbito de competencia estatal de la parte española de la Demarcación Hidrográfica del Cantábrico Oriental.

• Real Decreto 1704/2011, de 18 de noviembre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la demarcación de la parte española de la Demarcación Hidrográfica del Tajo.

• Real Decreto 1705/2011, de 18 de noviembre, por el que se establece la composición, estructura y funcionamiento del Consejo del Agua de la Demarcación Hidrográfica del Segura.


• Transposition of UWWTD (consolidated versions):


WISE electronic reporting (Art. 13 WFD)
Member State Governance Fact Sheet: FINLAND

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of Environment; Ministry of Agriculture and Forestry</td>
<td>ELY Centres; Environment Institute; Game and Fisheries Research Institute; other state and municipal authorities</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Environment</td>
<td>ELY Centres</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Ministry of Environment</td>
<td>ELY Centres; Environment Institute; Game and Fisheries Research Institute</td>
</tr>
<tr>
<td>Permitting</td>
<td>Regional State Administrative Agency or Municipalities’ Environment Protection authority</td>
<td>ELY Centres</td>
</tr>
<tr>
<td>Enforcement</td>
<td>ELY Centres; municipal environmental authorities</td>
<td></td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.

In Finland the Water Framework Directive was implemented by the Act on Water Resources Management (1299/2004), Government Decree on Water Resources Management Regions (1303/2004), and Government Decree on Water Resources Management (1040/2006). Control and monitoring of the enforcement of above
mentioned Act is undertaken by the Ministry of the Environment and the Ministry of Agriculture and Forestry within their respective spheres of operation.

The Ministry of the Environment:

- reporting to the Commission: provides the accepted River Basin Management Plans and their monitoring programmes, and reports on the implementation of Programme of Measures.

The regional centres for Economic Development, Transport and the Environment (ELY Centres, former Regional Environment Centres):

- implement duties laid down in the Act on Water Resources Management within their respective operating areas
- draw statements of characteristics of water bodies and human impact on waters
- draw economic statements of water use
- collect information on areas which should be protected under Community legislation
- collect information on areas which are suitable for water abstraction (household use)
- prepare the classification of water quality
- organise monitoring and establish monitoring programmes
- prepare RBMPs and PoMs.

The Finnish Environment Institute:

- offers expert services to the ELY Centres, Ministry of Environment and Ministry to Agriculture and Forestry
- maintains data system of River Basin Management planning including register on the information of protected areas

The Finnish Game and Fisheries Research Institute:

- offers expert services concerning fisheries

Others:

All the other state and municipal authorities operating within each water resources management region shall participate in water resources management as referred to in the Act on Water Resources Management within their respective spheres of operation.

Regarding international co-operation, Finland has agreements on transboundary water courses with Russia (1964), Sweden (1971 (new 2010)) and Norway (1980). The official cooperation on Tornionjoki water basin between Finland and Sweden was notified in 2003. Stakeholders are the regional centre for Economic Development, Transport and the Environment of Lappi, the Provincial Government of Norrbotten, Naturvårdsverket Sweden, Finnish Environment Institute, Fiskeriverket Sweden, Game and Fisheries Research Finland, Council of Tornionjokilaakso and Water Protection Society of the Rivers Tornio and Kalix. The main responsibility lies on the Regional centre for Economic Development, Transport and the Environment of Lappi (Finland), the Provincial Government of Norrbotten (Sweden).
In Teno-Näätämöjoki-Paatpjoki River Basin, there is cooperation between the Regional centre for Economic Development, Transport and the Environment of Lappi (Finland) and The Provincial Government of Finnmark (Norway). Also relevant research institutes are involved. The role of the Finnish-Norwegian Commission on Transboundary Water Courses as an official liaison body has not been formalised, but in practice it discusses the implementation of many of the recommendations presented in the River Basin Management Plans.

There have been no changes in administrative arrangements since the publication of the RBMP.

1.1 Division of responsibilities
The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.). Details of the competent authorities are provided above.

1.2 Authorities involved in preparing and approving the RBMPs
Regional Centres for Economic Development, Transport and the Environment (ELY centres) were responsible for the planning in their own regions. The liaison groups set up by ELY Centres acted as part of the planning process, and increased interaction and cooperation among various authorities and stakeholders. Public hearings and consultations were extensive and took place at three phases of the planning.

The RBMPs were approved by the Finnish Government.

Coordination mechanisms to deal with multiple authorities:

The overall RBMP work was supervised by a Steering group, of which other sectoral ministries in addition to MoE and MAFF, are members. Coordinators of each River Basin area comprise a coordination group, in which there are members also from Ministry of the Environment, Finnish Environment Institute and Ministry of Agriculture and Forestry. There are also regional liaison groups in each River Basin area. Also the executive team of the ELY-centre directors of the particular River Basin handle issues concerning River Basin management.

The Finnish Environment Institute will be responsible for the duties designated to it by the Ministry of the Environment and the Ministry of Agriculture and Forestry. The Finnish Game and Fisheries Research Institute will be responsible for the duties designated to it by the Ministry of Agriculture and Forestry.

The regional centres for Economic Development, Transport and the Environment (ELY Centres, former Regional Environment Centres) attend to duties within their respective operating areas.

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those responsible for preparing and approving the RBMPs.
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.

The ELY Centres are responsible for the planning, and also largely for the monitoring of measures, as they have the final responsibility for assessing progress in implementation and storing data in the information system. The Finnish Environment Institute also has a significant role in obtaining and editing data, and collating it for reporting to the European Union. Other operators are responsible for submitting the data concerning their administrative branches or operations. Consequently, the river basin management monitoring system has been prepared in dynamic interaction with a number of administrative branches and stakeholder groups.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

Different authorities are responsible for surveillance, operational and investigative monitoring, as outlined in the table below (Table 2).

Table 2: Authorities responsible for surveillance, operational and investigative monitoring

<table>
<thead>
<tr>
<th>Type of Monitoring</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveillance Monitoring</td>
<td>The Finnish Environment Institute (also responsible for coordination)</td>
</tr>
<tr>
<td>Operational Monitoring</td>
<td>ELY-centres and Finnish Environment Institute</td>
</tr>
<tr>
<td>Investigative Monitoring</td>
<td>Finnish Environment Institute, Game and Research Institute Finland (fish)</td>
</tr>
</tbody>
</table>

Because different authorities are responsible for the three types of monitoring, there is a requirement for coordination.

The overall coordination of the monitoring is organised by the Finnish Environment Institute (FEI), which allocates funding (provided by state budget and also by the Ministry of Agriculture and Forestry (monitoring on agriculture and forest areas) to the regional ELY Centres. The Game and Research Institute Finland is responsible for the monitoring of fish, in close cooperation with FEI.

The Finnish Environment Institute, ELY-centres and the Game and Research Institute Finland are responsible for monitoring in all water categories (rivers, lakes, transitional, coastal, groundwater).
3 Integration
The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies
The responsible authorities for each directive / policy are named in the table below (Table 3).

Table 3: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Ministry of Social Affairs and Health</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of Social Affairs and Health</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Ministry of Agriculture and Forestry</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>Climate</td>
<td>Ministry of the Environment, Ministry of Agriculture and Forestry (adaptation). Also other ministries of issues under their competence.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The overall RBMP work is supervised by a steering group, where other sectoral ministries participate.

3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (Table 4).

Table 4: Summary of responsible authorities for different drivers & sectors
<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
</table>
| Agriculture     | Ministry of Agriculture and Forestry  
|                 | Agency for Rural Affairs  
|                 | The regional centres for Economic Development, Transport and the Environment (ELY Centres, former Regional Environment Centres) |
| Water           | Drinking Water  
|                 | Ministry of Social Affairs and Health  
|                 | National Institute for Health and Welfare  
|                 | The regional centres for Economic Development, Transport and the Environment (ELY Centres, former Regional Environment Centres)  
|                 | Wastewater  
|                 | Ministry of the Environment  
|                 | The Finnish Environment Institute  
|                 | The regional centres for Economic Development, Transport and the Environment (ELY Centres, former Regional Environment Centres) |
| Energy          | Ministry of Employment and the Economy  
|                 | The regional centres for Economic Development, Transport and the Environment (ELY Centres, former Regional Environment Centres) |
| Transport       | Ministry of Transport and Communication  
|                 | The regional centres for Economic Development, Transport and the Environment (ELY Centres, former Regional Environment Centres) |
| Industry        | IPPC  
|                 | Ministry of Employment and the Economy  
|                 | Non IPPC  
|                 | Ministry of Employment and the Economy |
| Mining          | Ministry of Employment and the Economy |

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The overall RBMP work is supervised by a Steering group, where other sectoral ministries participate.

4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation

The procedures concerning the preparation and adoption of the RBMP are not linked to the general planning system of land use. The Act 1299/2004 provides for rules
concerning cooperation between authorities and public bodies (Section 14) and participation of interested stakeholders, individuals and groups (Sections 15). Each Centre shall arrange a sufficient level of cooperation and interaction with the different authorities and other parties in its operating area at the different stages of preparation of the water resources management plan: planning of the work, drafting of the RBMP and elaboration for governmental decision-making. For these purposes, it must have at least one planning cooperation group. Flood risk planning is coordinated with the elaboration of RBMP.

As far as participation and public hearing is concerned, the Centre shall reserve everybody the chance to study the preparatory plan documents and background studies; the content of these is determined in the Act (Section 13). The Centre shall also reserve the public and stakeholders an opportunity to present, in writing or electronically, their opinions on the plan documents. The availability of documents and the right to receive information is regulated in the Act on the Openness of Government Activities (621/1999). In addition, the Act includes administrative rules for opening and organising public participation in municipalities. These provisions are similar to those on public hearing in planning procedures. Appeal is possible only after the final decision of the Government.

Thus, there are no specific modes for different sectors. Fishery, agriculture, hydropower and other stakeholders are, as a rule represented in the preparatory groups mentioned above (in section 1b), which the Centres have to nominate and to coordinate. According to the Decree on Water Management (1303/2004, Section 3), the coordination group is nominated for six years and is composed of a sufficient representation of authorities, business actors, civil organisations, associations and research institutions which are involved in issues dealing with water use, water protection and water quality. Owners of watercourses and private users are also represented. The composition varies to some extent in different regions but in addition to authorities, nature conservation and fishery organisations as well as relevant interest groups are usually represented.98

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD

In addition, no significant changes have been made to existing authorities as a result of the WFD.

5.2 Organisation structure

No diagram has been provided to illustrate the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

98 http://www.sll.fi/luontojaymparisto/vesistot/vesiaineistoa/av2.pdf - the link refers to a study by Tuire Laurinolli on public participation in the coordination groups.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

There is a legal reference to the effect of the management plan in the Act 1299/2004 (Section 28), in particular in relation to authoritative planning: “State and municipal authorities shall give due consideration in their operations to the water resources management plans approved by the Government in accordance with section 17, as appropriate.” Regarding actors other than authorities, the same provision states: “Further provisions on giving due consideration to water resources management plans may also be laid down separately elsewhere in the law.” This implies that other laws will regulate the legal effect of the RBMP. Acts in question are in particular the Water Act and the Environmental Act as well as some other related laws, for instance the legislation on marine protection, public water supply and flood risk assessment.

The Water Act (264/1961, amended 587/2011) states that an application shall indicate that the management plan has been taken into account and that the permit authority “explains” how the plan has been taken into account. The permit rules of the Water Act do not refer to the objectives of the RBMP for instance as a ground for rejection of an application. The relevance of the objectives is indirect. In most cases, it seems that the RBMP serves as a source of information for the interpretation of impacts as these are relevant for the application of binding permit rules. In practice, the RBMP has mainly an impact on permit conditions in relation to supervision, control, measurements and review of permits. The rejection of a permit has to be formally based on legal provisions, and never on planning instruments alone but, as said, planning, including the RBMP, may provide information for the interpretation of those legal rules. Similar is true for permits under the Environmental Protection Act (86/2000).

The legal impact of the RBMP in individual cases is visible in permit clauses. The decisions of permit authorities and courts may state that, for instance, an emission limit value has been set in relation to the requirements of the RBMP. If the quality according to the RBMP is “good”, the permit authority estimates the extent to which the limit values in the operation plan are in line with this status. This estimate does not usually become a legal issue (grounds of appeal) but instead the control of the result is a question of monitoring. In some cases the court may state that the objectives of the RBMP are followed up or that they must not be jeopardised (Vaasa Regional Administrative Court 12/0011/1/12.1.2012 and 12/0010/1/10.1.2012 (decisions concerning permits for peat production.). In another case, the same court explicitly pronounced that the emissions of peat production, considering the limit values of the permit, would not achieve the objectives of the regional RBMP (Vaasa Regional Administrative Court 12/0004/1/9.1.2012.). Non-compliance or an error in the estimate may lead to the review of the permit.

For the purposes of preparing a water resources management plan, each regional administration (Centre for Economic Development, Transport and the Environment, hereafter “Centre”) shall draw up a timetable and work programme for drafting the management plan at least three years before the start of the management plan period (Act 1299/2004 Section 11). During the preparation phase, cooperation with local bodies and stakeholders as well as participation of the public is provided for. If the water district is within the administrative region of two or more Centres, one of them is appointed as a coordinating centre. After the finalisation of the RBMP the plan will be submitted to the Ministry of the Environment which prepares it for governmental decision-making (Section 16 of the Act). All water resources management plans are subject to approval by the Government. This is an administrative decision.

The decision concerning the approval of a water resources management plan may be challenged by submitting an appeal to the Supreme Administrative Court as laid down in the Administrative Judicial Procedure Act (586/1996). The decision on a water resources management plan shall be issued after the period of publication for at least 14 days and, once issued, is considered to have come to the attention of those concerned.

The Programme of Measures constitutes a part of the RBMP, and the Water Resources Management Act prescribes the content of the programme (Section 12). The procedures and the rules for adoption are thus the same as for the plan.

Information about the approval of a water resources management plan shall be submitted to the Centres, which shall forward the information to the municipalities in their area and to those authorities which were consulted at earlier stages in the process.

6.1.1 Legal effect
Since the Government is responsible for the adoption and final approval of all regional management plans, its decision has a high ranking. The general rule of hierarchy is that administrative decisions (in this case the decision is not a statute but an administrative decision) of the Government must be respected by public authorities. The binding effect of governmental guidance on the private sectors must be studied separately. For instance, the binding effect of this decision for water projects is regulated in the legislation on water management and environmental protection (see further explanations under question 2).

The 15 regional centres mentioned in section 1a above (Centre for Economic Development, Transport and the Environment) are responsible for almost all state administrative duties in the areas of land use planning, nature conservation and environmental control. They are under the financial guidance of two ministries, the Ministry of the Environment (land use, environment) and the Ministry for Agriculture and Forestry (water management). As a consequence of this hierarchy, the decision concerning a RBMP must be taken into account when municipal and state authorities prepare and approve other plans which affect water areas or groundwater. The Water Act has no planning system of its own and the general land use planning regime covers water areas including shores and groundwater. The Government may enact national

guidelines for the coordination of regional planning needs and also consider the need of specific water management measures. In this context the RBMP cannot be set aside.100

Water management projects usually require a permit issued by the Regional State Administrative Agency; there are six of them.101 They are placed in the administrative structure of the Ministry of Finance but depending on the sector different ministries adopt strategic plans for the agencies, mainly in terms of budget and goals, for their guidance. In environmental matters, including water permits, the agencies are independent decision-makers. In water permit procedures the Centre lacks decision-making competences but acts as an expert body and has legal standing on behalf of public interests before the agency and the courts. These include e.g. issues related to the RBMP.

It was a political decision to determine the Government as the approving authority, in order to give water-related needs a balanced treatment and evaluation. Since the Government rather seldom acts as an administrative body, one may say that the RBMP is given a solid ranking, supported by the scientific expertise during the drafting of the RBMP in the Centres.

The objectives are ratified as part of the RBMP by the State Government, following the guidance in the Act, which states that: “The objectives of water resources management plans shall be as follows...” (Act 1299/2004 Section 21). The catalogue quotes literally the provisions of Article 4 of the Directive and its exemptions for modified waters. The objectives therefore have no legal function of their own. The Government has to ensure the fulfilment of the objectives in the decision on approval which is open for appeal also on this ground.

The Government ratified the regional RBMPs on 10 December 2009. These individual plans provide the legally required information on water quality, pressures and trends. For instance, the Kemijoki basin management plan is structured in accordance with Directive 2000/60/EC and, concerning the objectives, the plan identifies the environmental objectives for surface waters, groundwater and certain specific areas.102 The Government has also adopted an enforcement plan for river basin management planning for 2010-2015 (17 February 2011).

One expression of intended binding effect is found in the permit rules which require that the authority declares to what extent or how the objectives of the RBMP have been taken into account (Act 1299/2004, Section 28, Water Act, Chapter 11, Section 22, Environmental Protection Act 86/2000, Section 50). Conversely, that obligation implies that the permit authorities study the content and the requirements of the RBMP both in relation to the legal granting conditions of a permit and to the detailed permit descriptions.

6.1.2 Legal status in relation to individual decisions
As mentioned above, State and municipal authorities shall give due consideration in their operations to the water resources management plans approved by the Government, as appropriate. This means that all authorities, municipalities and other public bodies have

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100 The Supreme Administrative Court states in its decision 2010:32/14.5.2010 that the national guidelines are not as such binding for the permit decision but the guidelines may serve as information about the environmental conditions and pressures.
to comply with the objectives of the management plan in their own activities (public works and related plans). There is no direct legal effect on other actors. As also mentioned, in permitting matters explicit rules on legal effect are necessary (for constitutional reasons) and some of those have been enacted in the water and environmental legislation, as an informative basis for decision-making. The Water Act (Chapter 3, Section 6) sets the RBMP in relation to the cost benefit – analysis which is the main tool for decision-making on water permit matters. The law says that "the analysis shall indicate how the content and the information of the RBMP has been taken into account".

While preparing land use plans (especially general ones, which cover larger natural areas), authorities shall consider the objectives of the RBMP but the binding effect is limited because the plan alone is not a sufficient ground for starting a project; additional permits and authorisations are also required. The legal conditions for granting a permit are themselves based on the assessment of impacts: thus, the law does not state that the objectives of a RBMP shall be reached but it may require a limit value in order to prevent pollution. In addition, the permit authority has to explain to what extent this limit, or any other measure, corresponds to the RBMP.

The result is that the permit rules of the water and environmental legislation do not address any element of the RBMP as a reason for rejecting or modifying a project. At least, the legislator was reluctant to pronounce such a rule explicitly. The reason is that the two main permit systems (water permit, environmental permit) use traditional, impact-based criteria (these vary case by case depending on the water environment) for the decision-making concerning permits, rather than numerical or technical values which are typical for the RBMP. However, due to the informative function of the objectives set forth in the RBMP, these objectives serve indirectly as a source of interpretation, mainly due to the obligation on the applicant to investigate the water quality and its trends. While preparing mandatory project plans, applicants and their consultants have to reflect the impacts of the planned project against the objectives of the RBMP. The Water Decree (1560/2011, Section 2) sets forth detailed provisions for e.g. the assessment of impacts at the stage of project planning. The regulations vary to some extent depending on the type of water permit. The project plan shall include, as appropriate, an investigation of the water quality, existing pressures and an estimate of the impact of the planned project on the water environment and the water quality. Without explicit wording in the Decree this is context where the RBMP has to be in particular taken into account. This practice is also visible in the cases of the Vaasa Administrative Court mentioned in this report as examples. The permit authority may then decide whether the requirements of the RBMP have been appropriately taken into account. The same applies to the review of existing permits. The RBMP might ultimately be a reason for reviewing a permit or its conditions, but the legal practice is not representative yet. The decision of the Supreme Administrative Court 20.8.2010/1869: part of the planned peat production area was excluded on the basis of the RBMP. The Court states that “considering the RBMP, which was ratified during the appeal procedure, where the objective was to reach good surface water quality by 2015, the permit application was partly rejected”.

The same also applies to the sector provisions concerning permit conditions for individual categories of activities. None of the following are covered by specific rules on the effect of the RBMP.
One main condition for granting a permit is the “environmental condition” which applies to all categories of the water and environmental legislation: a project may not cause significant and irreparable damage to the environment (Water Act Chapter 3). The intention of the permit system is that the objectives of the Government’s decision on approval of the RBMP give information of the relevant impacts on water quality and its effect on permit decision. The categories below are covered by some additional conditions but these are not relevant here.

The Water Decree (1569/2011) provides for application requirements in terms of information, investigations, mapping and measurement. These are partly modified depending on the project. One of these points sets the requirement of presenting data on water quality, ongoing pressures and the impact of the planned project on waters. Here references will be given to the objectives of the RBMP.

Water construction permits have usually a permanent duration (i.e. for hydropower plants, bridges, dams). Permits regulating the water flow or installations affecting water quality usually receive a permit until further notice, which means that the conditions of the permit will be regularly reviewed. There is no legally fixed term for review unless EU law has set such a term for certain installations. The terms will be decided on a case by case basis but a ten year period seems to be the rule.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations

The Water Act (587/2011) provides the rules for granting or modifying permits for hydropower installations (Chapter 8). General rules mentioned above apply. Installations require a permit from the Regional Administrative Agency. An application must give detailed technical and geological as well as hydrological information and an impact survey of the installation on the water body. The Water Decree provides for an investigation of the present water quality and the estimated impacts of the planned project but without specific references to the RBMP.

Abstraction for agriculture

The Water Act provides rules for water supply and abstraction. There are no specific rules for agriculture. Water abstraction from surface water requires a permit if the abstraction causes or may cause a level of damage which is described in the Act in more detail (Chapter 3 Section 3). In practice this means that major, especially commercial units need a permit. Abstraction from groundwater requires a permit in cases where daily abstraction exceeds 250 m3.

An application shall give specified information about the amount and other conditions of the abstraction and about hydrogeological and environmental quality as well as an estimate of the impact of the planned project on water quality and other ecological conditions.
**IPPC and other industrial installations**

The Environmental Protection Act is based primarily on classifications of operations, similar but more comprehensive lists than those covered by the IPPC Directive. In addition, water projects may require a permit on a case by case basis: this means that if a discharge or another operation may cause pollution of waters a permit is required, regardless of the amount discharged.

Detailed application requirements are enacted in the Environmental Protection Decree (169/2000, Chapter 33). Also here there is no explicit provision in relation to the objectives of the RBMP.

### 6.2 Relationship with other sectoral policy plans

Finland has no water planning system, in addition to the RBMP. As mentioned above, the drafting and adoption procedure of the RBMP is regulated without any links to other planning systems.

Municipal planning authorities are invited to participate in the preparation of RBMPs which is conducted by the Centre. Conversely, the Centres have an expert position in planning matters but municipalities make decisions. Only regional (general) land use plans must in addition be ratified by the Ministry of the Environment. During the consultative negotiations between municipalities and Centres in planning issues, the RBMP will affect the content of a plan, in accordance with Act 1299/2004 Section 21, where the objectives for planning of water areas are fixed. These objectives are relevant also for the adoption of National Land Use Guidelines. These were adopted on 30 November 2000 and revised on 13 November 2008. The Government defines the legal effect of the guidelines as a basis for regional land use planning and for coordination of administrative sectors. The emphasis lies on the creation of sustainable and structurally organised built-up areas, taking into account the need for environmental protection. The revision partly deals with the adaptation of urban structures to climate change and flood risks and it also states that a good state of water bodies should be maintained. The mechanisms for reaching this goal are, however, not indicated and the guidelines are not binding for water permit authorities or the Centres preparing the RBMP. Therefore the impact of the guidelines focuses primarily on building permits and comparable measures concerning constructions in accordance with Building Law.

The Act on the Management of Flood Risks (620/2010), which transposes Directive 2007/60/EC, provides for rules on the adoption of flood risk management plans. According to Section 12 of the Act, flood risk maps and the preparation as well as review of flood risk management plans shall be coordinated with the administrative measures under Act 2009/2004 (Section 5) referring to the adoption of water management plans (RBMP) and marine strategy plans according to Directive 2008/56/EC, regulated by the same Act. The body is the same for both flood risk management plans and RBMP. Coordination means that the body responsible for the preparation of RBMP shall take into consideration the additional requirements arising from Act 620/2006 and, to the extent it is required, the flood risk element shall be included in the RBMP. The specific duties in this respect are identified in Section 4 of Act 620/2006. Act 1299/2004 has been amended (623/2010) to clarify to what extent flood risk management plans affect the preparation of RBMP.
7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

A written application for an environment or water permit is sent to the designated authority stated in the Decree of Environment Protection or Water Act. Depending on the size and the extent of the activity, this authority can be either the Regional State Administrative Agency or Municipalities’ Environment Protection authority.

The authority publicly announces its receipt of the application, after which authorities and residents of the area can give their views.

The results of the water management planning are taken into account in considering whether to grant the permit, and they also steer the activities related to water and land use. There is a possibility to appeal about the ruling to the Administrative Court in Vaasa or further to the Supreme Administrative Court.

Permits (licences) are coordinated by the main WFD competent authority.

There is no inventory of permits (licences).

No information has been provided regarding whether there are different authorities for different water users.

Because different authorities are responsible for permitting, there is a requirement for coordination / communication, the process of which is outlined below.

There are six Regional State Administrative Agencies that started operating on 1 January 2010. The agencies’ tasks consist of those of the former state provincial offices, occupational health and safety districts, environmental permit agencies and regional environmental centres. The agencies work in close collaboration with local authorities.

The agencies foster regional parity by executing all legislative implementation, steering and supervision functions in the regions. The agencies strengthen implementation of basic rights and legal protection, access to basic public services, environmental protection, environmental sustainability, public safety and a safe and healthy living and working environment in the regions.

ELY-centres give statements to Regional State Administrative Agencies from new permit applications. Statements contain information how permit would impact on environmental objectives of RBMP’s.

7.2 Permit applications

The process for application for a permit is described below.
A written application for an environment or water permit is sent to the designated authority stated in the Decree of Environment Protection or Water Act. Depending on the size and the extent of the activity, this authority can be either the Regional State Administrative Agency or Municipalities’ Environment Protection authority.

The authority publicly announces its receipt of the application, after which authorities and residents of the area can give their views.

The results of the water management planning are taken into account in considering whether to grant the permit, and they also steer the activities related to water and land use. There is a possibility to appeal about the ruling to the Administrative Court in Vaasa or further to the Supreme Administrative Court.

Regarding permits for abstractions, impoundments and hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management. No information has been provided regarding mechanisms to minimise potential conflicts of interest.

Regarding permits for point source discharges and diffuse pollution measures, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

### 7.3 Enforcement of permits: authorities

The main authorities responsible for the enforcement of water-related permits are: on the regional level, the 15 Centres for Economic Development, Transport and the Environment (ELYs) (13 of these centres deal with environmental issues), which manage the regional implementation and development tasks of the state administration; and, at the local level, the municipal environmental authorities (ch.1 s.7 of the Water Act, WA and s. 22 of the Environmental Pollution Act, EPA). The ELYs and the municipal environmental authorities are responsible for the enforcement of permits under several acts, including the Water Act (ch.14 s.1 of the WL); as well as the decrees and regulations that have been adopted pursuant to the Water Act (Environment Ministry, Report 1sv/2012: ‘The revised Water Act’ p. 14); and the Environmental Protection Act (the chapeau of the Environmental Protection Decree and ch.3 s.22 of the EP). Åland has its own legislation.

These supervisory authorities have the right to conduct inspections (ch.14 s.2 and 3 of the WL and s. 83 of the EPA), to enter the area where the activity is pursued, and to conduct inspections, examinations, and take measurements and samples (ch.14 s.3 of the WL). They report suspected crimes to the police and prosecutors.

The environmental authorities are organised by region (ELYs) and at the level of municipality.

These enforcement authorities cover different economic sectors and different types of permits: there are not differences along this basis.

For example, the Environmental Protection Act stipulates that the enforcement authorities are the ELY and the municipal environmental authorities (see above Q1). The ELYs and municipalities are responsible for permits in the different economic sectors. Which authority is responsible depends on the size of the activity. Governmental Decree Nr 169/2000 sets thresholds that determine under which authority that an activity falls.
Generally, it can be said that the ELYs are responsible for large-scale activities, while the municipalities are responsible for small-scale activities.

Thus, it is not the kind of activity that determines which authority that is responsible for the enforcement; it is the size of the activity. For example, IPPC and mining activities are considered as large-scale activities and therefore fall under the ELYs.

For agriculture, the competent authority depends on the size of the farm. Thus, large farms fall under the control of ELYs, while small farms fall under the municipalities.

The ELYs and the municipal environmental authorities are responsible for enforcement across different types of permits. The size of the activity determines whether the enforcement authority is on the local level (municipality) or the state level (ELYs). Hydromorphological modifications and water abstraction fall under the WL according to which the ELYs have the main responsibility for enforcement of permits. For point source discharges, the responsibilities are divided between municipalities and ELYs according to the Governmental Decree 169/2000 as described under above.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
The ELYs and the municipal environmental authorities have parallel competences which are determined by the thresholds set by the Government Decree Nr 169/2000 for activities related to discharges into waters. The authority which grants the permit is also the authority which is responsible for the enforcement of the permit. If the municipality grants the permit then it is also responsible for the enforcement of the permit. The ELY centres are responsible for enforcement of the activities for which the four regional state administrative agencies grant permits. The authorities only need to agree on the division of the tasks if it’s not clear which authority is responsible (e.g. if the activity falls somewhere around the threshold).

The ELYs and the municipalities of the region covered by the ELY in question meet once a year to discuss their plans for enforcement for the following year. Each authority has its own individual plan for enforcement, which means that each municipality has a plan and each ELY centre has a plan. Some municipalities coordinate their work and have common enforcement plans. If the need arises, the enforcement authorities may in addition to the yearly meeting determine to have a coordination meeting on a specific case.

7.4.2 Between enforcement and water management authorities
The ELY centres are water management authorities, while the municipalities are not. There is coordination inside the ELY centres but there is no formal coordination. For water management there are planning coordination groups led by the ELYs where also the municipalities participate (s. 14 of the Act on Water Resources Management 1299/2004). These planning coordination groups can also address questions related to the enforcement of water permits.

7.5 Enforcement actions

7.5.1 Number of inspectors
All together 70 FTE inspectors worked with the permits according to WA and EPA in the ELYs in 2011. Information specifically for water permits is not available. (The FTE is
calculated just for the enforcement and does not include the related general administration in the ELYs.) For the 336 municipalities there is no information found.

For industrial facilities and municipal waste and wastewater treatment, according to EPA, there were 50 FTE inspectors working in the ELYs in 2011 (data specifically for water issues is not available).

For hydromorphological modifications and water abstraction according to WA, there were 20 FTE inspectors working in the ELYs in 2011.

### 7.5.2 Number of inspections

There are all together around 6500 permit holders according to the WA and EPA where the enforcement of the permit is the responsibility of the ELYs. There were around 3100 inspections carried out in 2011. This information is across all environmental areas and is not just related to the water permits.

There are both regular inspections in accordance with the enforcement plans and those in response to specific problems and monitoring information. For the regular inspections, there are four different categories of activities in the enforcement plans of the ELY centres according to the risk or impact, i.e. the activities are grouped in accordance with the risk that they pose to the environment and in accordance to their impact on the environment. Usually larger scale activities have tighter control and more frequent inspections.

There is no information available for the municipalities.

For activities that have a permit according to the EPA, there were around 2300 inspections carried out in 2011 by the ELYs. This information is not just related to water permits.

For installations that have a permit according to the WA there were around 800 inspections carried out in 2011 by the ELYs.

### 7.5.3 Number of infringement actions

No information found.

### 7.5.4 Other mechanisms (in addition to inspections)

According to the permits, usually the permit holder is responsible for the monitoring of its pollution. The permit holders have to send all the information from the monitoring to the enforcement authority. If the information shows that there are some problems, e.g. with pollution, the enforcement authority can decide to conduct an inspection or ask for more information.

### 7.6 Types of administrative and criminal sanctions

#### 7.6.1 Sanctions established in national legislation

Both administrative and criminal sanctions can be applied.\(^{103}\)

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\(^{103}\) This section is based mainly on the following sources:

- Criminal Code (Strafflag 19.12.1889/39);
- Environmental Protection Act (Miljöskyddslag 4.2.2000/86); Environmental Protection
Under Finland’s Water Act, enforcement authorities have the right to prohibit an activity in violation of laws and permits; to require corrections to what has been done in contravention of the conditions, regulations or prohibitions; to oblige the perpetrator to fulfil his obligations; and to prevent the adverse impacts of the action or minimize them (ch.14 s.4 and 6 of the WA and s. 84 of the EPA). The authorities can also require immediate measures to eliminate a problem or danger if there is a risk of immediate harm or danger to health, safety or important public interest (ch.14 s.10 of the WL). The authorities have the right to issue administrative fines; and they can prohibit an activity (ch.14 s.8 of the WL; also in ch.13 s.88 of the EPA).

Regarding criminal sanctions, both the WL and EP refer to chapter 48 sections 1-4 of the Criminal Code (CC) with regard to sanctions for environmental damage (ch.16 s.1 of the WL and ch.15 s.116 of the EP). These sections relate to environmental offences. Any intentional or grossly negligent release of substances into the environment contrary to law, without a permit or in breach of a permit, and if the purpose of the act is to pollute the environment, cause other corresponding damage to the environment or cause damage to health, is punishable by fines or imprisonment not exceeding two years. This also applies to attempt. The same applies to any intentional or grossly negligent changes to the environment contrary to the Land Use and Building Act and the Water Act or contrary to any provisions, plans or permits issued under these acts in cases where the purpose of the act is to lead to such serious environmental changes that they can be compared to environmental pollution (ch.48 s.1 of the CC). If the risk of damage or damage of the above is particularly serious with regard to the long duration, wide effect and other circumstances, or if the act was committed in violation of an order or prohibition of an authority, issued because of a conduct referred to in section 1, and the offence is aggravated also when assessed as a whole, the sanction is imprisonment for at least four months and at most six years (ch.48 s.2 of the CC). If the impact on the environment is minor, the sanction is a fine or imprisonment for at most six months. The same sanction applies to anyone who neglects to apply for an environmental permit pursuant to sections 28 and 29 of the EP (ch.48 s.3 of the CC). Sections 28 and 29 relate to water-related permits. A person who, through negligence not to be deemed gross, affects the environment in a manner referred to in section 1 subsection 1(1) (see above), or violates the EP or provisions or orders based thereon so that the damage or danger of damage caused to the environment or health is especially serious, can be punished with a fine or imprisonment for at most one year (ch.48 s.4 of the CC).

The sanctions are similar under the Environmental Protection Act. The Water Act does not deal with pollution, only with water related activities. When a breach occurs, the first step is to ask the permit holder to correct the situation. Usually no sanction is issued at this stage. If the permit holder does not correct the situation, then the next step is to issue sanctions.

### 7.6.2 Sanctions normally brought for water violations

The most common sanctions are administrative sanctions (fines). Criminal sanctions can also be applied but are not as commonly used.

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Decree (Miljöskyddsförordning 18.2.169/2000); Land Use and Building Act (Markanvändning- och bygglag 5.2 1999/132); Water Act (Vattenlag 27.5.2011/587); interview with Tuire Taina


7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
One of the strengths is that there is only one state authority that is responsible for the enforcement of the permits and water management. The coordination of different tasks is quite easy and well done. The people who work on enforcement work also with other aspects of environmental law, which is also a strength of the system.

7.7.2 Weaknesses of the system of inspections and enforcement
One of the main areas for improvement relates to the role of the municipalities. It’s not a problem in general, but the resources and skills of municipalities vary a lot. Some municipalities work well, while others have very limited resources for environmental issues. The problem is that there are differences between the municipalities and the enforcement can vary. This is also why the coordination between the municipalities and the ELY centres is important.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is still early to say whether the RBMPs have strengthened enforcement. So far the WFD and RBMPs have influenced the monitoring; how the permit holder needs to monitor his activities. Now, there is more coordinated monitoring than before. The permits have to be revised according to the Environmental Protection Act and the permit is only valid for a certain amount of time. Another difference is that now it has to be taken into account what the water management plan says. If the status of the water is not good then the permit period could be shorter (most permits have a 7 to 9 period, but some have shorter and others longer periods). It is part of the enforcement as the enforcement authorities give their statement to the permitting authority as part of the revision of the permit.
8 References


Environment Ministry, Report 1sv/2012, The revised Water Law

Environmental Protection Act


Government Decree on Water Resources Management (1040/2006)

Interview with Tuire Taina

Land Use and Building Act

Monitoring system for river basin management measures 2010–2015, Publication series and number Environmental Administration Guidelines 1/2012


Publication series and number The Finnish Environment 8/2011


Member State Governance Fact Sheet: FRANCE

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of Environment &amp; its regional offices, Water Basin Agencies</td>
<td>National research laboratory, National institute for marine research and studies (IFREMER), National institute for geological and mining resources (BRGM)</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Environment &amp; its regional offices, Water Basin Agencies</td>
<td>National research laboratory, National institute for marine research and studies (IFREMER), National institute for geological and mining resources (BRGM)</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Ministry of Environment &amp; its regional offices, Water Basin Agencies, National office of water and aquatic ecosystems (ONEMA).</td>
<td>National research laboratory, National institute for marine research and studies (IFREMER), National institute for geological and mining resources (BRGM)</td>
</tr>
<tr>
<td>Permitting</td>
<td>Ministry of Environment &amp; its regional offices, Departmental office of the French Ministry of agriculture (DDT), ONEMA, Departmental water Office (MISE)</td>
<td>National research laboratory, National institute for marine research and studies (IFREMER), National institute for geological and mining resources (BRGM)</td>
</tr>
<tr>
<td>Enforcement</td>
<td>ONEMA, DDT, Prefect, Regional Departments for environment, planning and Gendarmerie, local authorities</td>
<td>National research laboratory, National institute for marine research and studies (IFREMER), National institute for geological and mining resources (BRGM)</td>
</tr>
</tbody>
</table>
The main competent authorities responsible for the implementation of the WFD are described below.

French Ministry of environment and its regional offices, Water basin agencies implementing WFD on 13 water districts (8 metropolitan and 5 overseas districts).

There have been no significant changes since the publication of the RBMP. Water agencies were established in 1964 in France and first RBMP introduced in French law in 1992 and implemented in 1996.

### 1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.). All water bodies are under the responsibilities of 2 main authorities:

- Regional offices of the French Ministry of environment
- Water basin agencies.

French ministry representatives are in charge of ensuring implementation of new French water law since 2006, for introducing WFD requirements in French law. They are responsible for information, and control on mandatory measures driven by new decrees (pesticides/nitrates - diffuse and point contamination sources, water withdrawal for irrigation, ecological continuity...) Water basin agencies are responsible for implementing the Polluter Pays Principle through taxes/subsidies system, providing local engagement, and financial support for implementing the Programme of Measures annexed to the RBMP.

Co-ordination among the different authorities for the management of different water categories is formalised. Coordination is carried out at the technical/senior management/political level.

Coordination is mainly through regular technical meetings (generally organised by sector: agriculture, industries, households...) and water basin committees.

Coordination is done by water agencies and regional offices of the French environmental ministry. It involves all water users representatives through water basin committees: French agricultural ministry representatives, industry, consumer groups, farmers organisations, municipalities, fishing and recreational users.

### 1.2 Authorities involved in preparing and approving the RBMPs

RBMPs have been prepared by Water agencies and regional offices of the ministry of environment, through a large process of co-construction and consultation. The documents are approved by water basin committees.
1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The authorities that request monitoring are described below.

Main authorities in charge of monitoring:
- Regional offices of the French Ministry of environment (DREAL)
- Water basin agencies
- National office of water and aquatic ecosystems (ONEMA).

Research on monitoring process and indicator has been designated by the French water law of 2006 with the creation of national research laboratory merging expertise of 5 research organisms: BRGM, IFREMER, IRSTEA (ex CEMAGREF), LNE, INERIS.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

Regional offices of the French Ministry of environment (DREAL), Water basin agencies and the National office of water and aquatic ecosystems (ONEMA) are responsible for all three types of monitoring (surveillance, operational and investigative). Responsibilities are mainly shared depending on the indicators to be monitored: - Regional offices of the French Ministry of environment are responsible for general respect of French law, and the monitoring of: Invertebrates, Phytobenthos, Diatoms, Macrophytes. Water basin agencies financial support for monitoring networks and monitoring of: physicochemical parameters, priority substances. National office of water and aquatic ecosystems (ONEMA) are responsible for Hydromorphology, fishing and fish species monitoring.

The authorities responsible for monitoring in different water categories are outlined in the table below (Table 2).

Table 2: Summary of authorities responsible for monitoring in different water categories

<table>
<thead>
<tr>
<th>Water category</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>As above</td>
</tr>
<tr>
<td>Lakes</td>
<td>As above</td>
</tr>
<tr>
<td>Transitional</td>
<td>As above</td>
</tr>
<tr>
<td>Coastal</td>
<td>As above + National institute for marine research and studies (IFREMER)</td>
</tr>
<tr>
<td>AWBs</td>
<td>As above</td>
</tr>
</tbody>
</table>
3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

Table 3: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Regional offices of the French Ministry of environment (DREAL) Water basin agencies</td>
</tr>
<tr>
<td></td>
<td>Regional offices of the French Ministry of agriculture (DDT)</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Regional Health Agency (ARS)</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Regional Health Agency (ARS)</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Regional Health Agency (ARS)</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Regional offices of the French Ministry of environment (DREAL)</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Regional offices of the French Ministry of environment (DREAL)</td>
</tr>
<tr>
<td>Climate</td>
<td>Regional offices of the French Ministry of environment (DREAL)</td>
</tr>
<tr>
<td></td>
<td>Environment and Energy management agency (ADEME)</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. ADEME and Water basin agency mostly provide technical,
financial and human support to the implementation directives managed by DREAL. Coordination of communication activities such as the establishment of technical committees is organised through the DREAL offices as required.

3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (Table 4).

Table 4: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Regional offices of the French Ministry of agriculture (DDT) Involved in drafting dRBMP, and have representatives in the River basin committee</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>Regional Health Agency (ARS) Involved in drafting dRBMP, and have representatives in the River basin committee</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td></td>
<td>Wastewater is the responsibility of the municipalities.</td>
</tr>
<tr>
<td></td>
<td>Regional offices of the French Ministry of environment (DREAL) are in charge of controlling yields of treatment and water quality at the outlet.</td>
</tr>
<tr>
<td></td>
<td>Water basin agencies provide technical and financial support</td>
</tr>
<tr>
<td>Energy</td>
<td>Regional offices of the French Ministry of environment (DREAL)</td>
</tr>
<tr>
<td></td>
<td>Environment and Energy management agency (ADEME) for technical, financial and administrative support.</td>
</tr>
<tr>
<td>Transport</td>
<td>Regional offices of the French Ministry of environment (DREAL)</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>Regional offices of the French Ministry of environment (DREAL) DREAL is the result of the merge of the regional office of the ministry of industry (dealing with IPPC and non IPPC) and regional office of the ministry of environment</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>Regional offices of the French Ministry of environment (DREAL) DREAL is the resulting organism of the merge of regional office of the ministry of industry (dealing with IPPC and non IPPC) and regional office of the ministry of environment</td>
</tr>
<tr>
<td>Mining</td>
<td>Regional offices of the French Ministry of environment (DREAL) BRGM participates in drafting the RBMP.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. This is achieved through regular working groups and official meetings of the water basin committee where all authorities are represented.
4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation

The involvement of stakeholders is primarily ensured through the role of the Basin Committees - often designated as the ‘local water parliaments’ – in the adoption of the SDAGE. A Basin Committee is established in each basin or group of basins and is responsible for developing and updating the SDAGE and following-up its implementation. The Basin Committee is composed for 40% by representatives of regional and general councils, and for the majority, of representatives of the municipalities or their grouping competent in the field of water. Another 40% includes representatives of water users, socio-professional organisations, registered environmental and consumers NGOs, organisations representing fisheries and qualified persons. The remaining 20% includes representatives from the State or its relevant public establishments.

The Basin Committee plays a central role in the public consultation process during the preparation of the SDAGE as it is responsible for gathering the observations from the public on the draft SDAGE and to submit the draft, which has been modified if necessary to take into account the opinion of the public, to the relevant regional councils, the general councils, the basin territorial public establishments and consular chambers for consultation. Again, the Basin Committee can modify the draft to take into account the opinions received.

The same procedure applies for the review of the SDAGE.

With regard to implementation, the Basin Committees votes the programme of the Water Agency in each river basin as well as the rate of water charges within the limits set by law. It should be noted that, in practice, the main role is played by a smaller instance, the Administration Council, which is designated by and within the Basin Committee. In particular, the Administration Council is responsible for defining and managing the intervention programme of the relevant water agency, including voting the annual budget.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

New authorities have been created as a result of the WFD. To increase technical support for monitoring water quality status, and implement economic principles of WFD (PPP, cost recovery, payment for ecosystems services...), the National office of water and aquatic ecosystems (ONEMA) was created in 2006.

As well as creating new authorities, changes have been made to existing authorities as a result of the WFD. Water basin agency lost part of its technical and research responsibilities which have been transferred to ONEMA. Another organism has been created on water bodies with quantitative imbalances: The organisation for collective management of water for irrigation (OUGC) in charge of sharing an annual volume of water between farmers of the area.
Benefits of these changes include better clarification of the objectives and duties: Water agency: Polluter Pay Principle through its taxes/subsidies system ONEMA: Research, technical support and control.

5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

6 Analysis of the nature of RBMPs
6.1 Characterisation of the legal status of the River Basin Management Plan
The legal effect of the RBMP is regulated in relation to a range of decisions and planning documents in the Environmental Code and in the Urban Planning Code (see below).

In France, the RBMP is the water development and management master plan (schémas directeurs d’aménagement et de gestion des eaux, SDAGE). Article L212-2 of the Environmental Code stipulates that the SDAGE is adopted by the Basin Committee (see next question for more details on this institution) and approved by the coordinating prefect (préfet coordonnateur de bassin). The coordinating prefect for a given basin is the regional prefect located in the region where the corresponding Basin Committee has
its office. The regional prefect is the representative of the Central Government within the region.

The coordinating prefect approves the SDAGE, together with the pluriannual programme of measures – the PoM – by Order published in the Official Journal.

6.1.1 Legal effect
The SDAGE is a planning document. In the hierarchy of legal acts, on the one hand, it falls under laws and regulations (decrees). It cannot contradict laws and regulations. On the other hand, it stands above water-related administrative decisions including SAGE, SCOT, PLU and municipalities maps (cartes communales). Besides, it applies only on the river basin scale and therefore cannot modify national-level administrative decisions.

Article L212-XI of the Environmental Code stipulates that the administrative programmes and decisions in the field of water must be compatible or made compatible with the provisions of the SDAGE. The binding nature of the SDAGE derives from an obligation of compatibility, which stands between an obligation of taking into account and an obligation of compliance. It implies that the administrative decision or programme should not contradict the main objectives and provisions of the SDAGE. It is not directly binding on individuals but on the administration. Therefore, it is the administrative decision which, for example, authorises an individual action contrary to the SDAGE, which can be brought to court (see examples of jurisprudence).

6.1.2 Legal status in relation to individual decisions
As mentioned above, the Environmental Code requires that administrative decisions in the field of water must be compatible or made compatible with the provisions of the SDAGE, in particular the environmental objectives. Such decisions would include permitting for industrial installations, hydropower concessions as well as authorisation for abstraction for agriculture. This obligation applies also to existing permit/concession. However, there is no timeline specified making compatible the individual permitting decisions.

The Circulaire No DE/SATDCP/BCP/No 10 of 21 April 2008 on water development and management plans (shéma d’aménagement et de gestion des eaux – SAGE¹⁰⁴) lists in its Annex II the administrative decisions that should be compatible or made compatible with the SAGE. As the Environmental Code sets a similar obligation to ensure that water related administrative decisions are compatible or made compatible to the SAGE, by analogy, these administrative decisions are the same for the SAGE and the SDAGE.

These administrative decisions include all permitting decisions both for classified installations and other industrial installations, natural risk prevention plans including for flooding, abstraction for agriculture and hydropower concessions.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations

¹⁰⁴ The SAGE are sets the general objectives for the use, the development and the quantitative and qualitative protection of surface water and groundwater resources and the aquatic ecosystems as well as for the preservation of the wetlands at the sub-basin level.
Hydropower installations can fall under two different regimes: the concession regime for installation with power above 4.5 MW and the authorisation regime for installations with power below 4.5 MW.

The hydropower authorisation is granted by the prefect and is an administrative decision and, as such, must be compatible or made compatible with the provisions of the SDAGE.

Relevant case law includes a court decision relating to the renewal of an authorisation for a micro-hydropower station. In this case, the court considered that the impact declaration (notice d’impact) should have justified the compatibility of the installation with the rules established by the SDAGE relating to renewal of authorisations for micro hydropower stations, and in particular, the closure of obsolete installations (CAA Nantes, 26 December 2002, SARL ‘Au fil de la Vire’, N°01NT00282). Similarly, the decision not to grant an authorisation for a hydropower installation was found legitimate in relation to a SDAGE, which stated as a key guiding principle the control of pressures from usage to preserve the strong potential of water courses (for fishing), including by prohibiting hydropower (CAA Lyon, 16 February 2006, Société hydroélectrique de Francin, n°00LY01172).

The Environmental Code does not set a deadline for making compatible an administrative decision with the SDAGE if it is not the case.

In case of hydropower subject to concession, the concession is delivered by the prefect for installations between 4.5 MW and 100 MW. Concessions for installations above 100 MW are granted by the Prime Minister and the Minister in charge of energy. The concessions were primarily granted for a duration of 75 years. When renewed, the contract of concession is as a rule of a smaller duration. Similarly to smaller concessions, these are administrative decision which should be made compatible with the SDAGE although there is no deadline to do so.

However, it should be noted that with regard to hydropower installations subject to concession, a large number of concessions are currently being renewed as part of a large plan to develop hydropower. The Order of 23 December 2008 defining the application dossier for concession pursuant to Article 3 of Decree No 94-894 of 13 October 1994 as modified relating to concession and declaration of public utility of facilities using hydropower (Arrêté du 23 décembre 2008 définissant le dossier de demande de concession prévu à l'article 3 du décret n° 94-894 du 13 octobre 1994 modifié relatif à la concession et à la déclaration d'utilité publique des ouvrages utilisant l'énergie hydraulique) requires that the application includes the elements allowing to assess the compatibility of the project with the SDAGE and the environmental objectives (Article 1(e)). The first calls for the renewal of the concessions were due end of 2011. The renewal of the main hydropower concessions should take place until 2020 in different stages.

In addition, the SDAGE contain specific provisions on hydropower. The SDAGE should take into account the assessment of the hydropower potential, as per Article 6 of Law 2000-108 of 10 February 2000 relating to the modernisation and development of the public service of electricity105.

Abstraction for agriculture

Article R214-31 regulates authorisations for abstraction for agriculture. These authorisations are granted for 15 years maximum and set the maximum authorised volume of abstracted waters per year. Article R214-31-2 specifies that abstraction subject to pluri-annual authorisation should be compatible with the key guiding principles and water quality and quantity objectives set by the SDAGE. It further requires that, in case the SDAGE is revised, the single authorisation is modified, if necessary, to be made compatible with the new provisions of the SDAGE. Therefore, in the case of abstraction for agriculture, the timeline for revision is aligned with the required 6 yearly reviews of the RBMPs, in the sense that revision of the SDAGE triggers a potential revision of the authorisation to make it compatible with the SDAGE.

IPPC and other industrial installations

An authorisation for an IPPC installation or for discharges from other installations would be an administrative decision which must be compatible with the SDAGE in the sense of Article L212-1 XI of the Environmental Code. In addition, Article L214-7 stipulates that classified installations are subject to Article L212-1.

In particular, the SDAGE can, if necessary to reach a good status, define stricter objectives in terms of reduction and phasing out of direct or indirect discharge of hazardous substances, than those defined at the national level (Article R212-9 of the Environmental Code).

Measures have been taken to ensure that the existing permits are compatible with the new SDAGE. The territorial operation action programmes (programme d’action opérationnel territorialise – PAOT) to be developed by the Interdepartmental Missions for Water and Nature (MISEN - Mission Inter-Services de l’Eau (et de la Nature)) to define concrete measures to reach the SDAGE objectives. Inspections are responsible for putting in compatibility water aspects of authorisations for classified installations in 2010/2011. In addition, a circulaire is currently being finalised to guide the different departments during the processing of the dossiers for classified installations in order to take into account the objectives of the Water Framework Directive.

The Environmental Code does not set a deadline for making compatible permitting decisions with the SDAGE.

6.2 Relationship with other sectoral policy plans

The RBMP is binding (obligation of compatibility) in relation to a range of different planning and land use documents:

- Article L212-3 Environmental Code states that the SAGE established for a sub-basin or a group of sub-basins or for an aquifer system should be compatible with the SDAGE or made compatible within 3 years following the updating of the SDAGE. The SAGE concretises the provisions of the SDAGE at a local scale. Article R212-38 of the Environmental Code specifies that the Basin Committee is in charge of assessing the compatibility of the SAGE with the SDAGE during its examination of the draft SAGE.
The rule of compatibility also applies to key territorial planning documents. Pursuant to Article L122-1-12 of Urban Planning Code (code de l’urbanisme), the territorial cohesion schemes (Shémas de cohérence territorial – SCOT) should be compatible with the key guiding principles and environmental objectives as defined by the SDAGE and the protection objectives defined by the SAGE. The SCOT aims at making coherent public policies in the field of environment, housing, economy and transports. It is the main planning document at the inter-municipalities level and determines the general principles for balancing the urban zones, the natural, agricultural or forestry areas. When the SDAGE and SAGE are approved after the approval of a SCOT, the SCOT must, if necessary be made compatible within 3 years.

It should also be noted that Article L122-1-13 of the Environmental Code requires compatibility of the SCOT with the objectives and key guiding principles of flood risk management plans, as well as their provisions for reducing the vulnerability of the territories to flood risks, including measures for the development of a sustainable land use and exploitation, in particular measures for controlling urbanisation and territory coherency with regard to flood risk, measures for reducing the vulnerability of economic activities and buildings, as well as water retention and flood control measures set in the flood risk management plans. The compatibility rules are similar to those set for the SDAGE. If the flood risk management plan is approved after the approbation of the SCOT, the latest document must, if necessary, be made compatible within three years with the different elements of the flood risk management plan mentioned above. In these cases, the SCOT does not need to be compatible with the key guiding principles relating to flood prevention defined by the SDAGE.

Pursuant to Articles L123-1 and L124-1 of the Urban Planning Code, the same rules of compatibility apply to the local land use plans (plan locaux d’urbanisme – PLU) and the municipal maps (cartes communales), in relation to both the SDAGE and the flood risk management plans.

The provisions on the consultation procedure for all these different territorial planning documents do not specifically require that the Basin Committee or the Coordinating Prefect are consulted/involved. However, it requires that the relevant prefect is involved. Besides, users and environmental associations should also be consulted. Finally, the municipalities, which are the main actors in terms of implementation of the SDAGE are the main developers of these different territorial planning documents.

Under Article L515-3 of the Environmental Code, the department plan for quarries must be compatible or made compatible within three years with the SDAGE (and SAGE) provisions. The departmental plan for quarries defines the general conditions for quarries layout in the department. A Circulaire of 1995 specifies that this obligation of compatibility relates particularly to

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107 Circulaire of 4 May 1995 relating to the linkage between the SDAGE, the SAGE and the departmental plans for quarries (Circulaire du 04/05/95 relative à l’articulation entre les schémas directeurs d’aménagement et de gestion des eaux, les schémas d’aménagement et de gestion des eaux et les schémas départementaux de carrières)
dredging operations in rivers. It also mentions that the departmental plans for quarries should be prepared by departmental commissions for quarries to which administrations competent in the field of water as well as representatives of professional organisations concerned participate.

- Pursuant to Article L.566-7 of the Environmental Code, the flood risk management plans must be compatible with the qualitative and quantitative objectives of the SDAGE. The link between the adoption of the flood risk management plans and the SDAGE is further explained in the Circulaire of 5 July 2011 relating to the implementation of the policy of flood risk management, which stipulates that ‘for the implementation of the Floods Directive, full use should be made of the experience gained by the State organisations and the water agencies in the implementation of the Water Framework Directive, with which, in addition, the Floods Directive should be articulated’. The instruction further shows in its Annex II how the implementation of both directives is interlinked over time, in particular in terms of adoption of the flood risk management plans and the adoption of the new river basin management plans in December 2015. Article L544-11 and 12 of the Environmental Code provides for the involvement of interested parties, which are already participating in the implementation of the Water Framework Directive, in the preparation and updating of the flood risk preliminary assessment, the flood risk maps and hazard maps and the flood risk management plans.

The Circulaire WFD 2005/10 relating to the updating of the SDAGE, to the development of the programme of measures pursuant to Articles L.212-2 and L.212-1 of the Environmental Code and to the development of the IXth Water Agencies intervention programmes (circulaire DCE 2005/10 relative à la mise à jour du schéma directeur d’aménagement des eaux, à l’élaboration du programme de mesures en application des articles L. 212-2 et L. 212-2-1 du code de l’environnement et à l’élaboration des IXèmes programmes d’intervention des agences de l’eau) recalled the obligation to examine attentively the implications of the fundamental objectives of the SDAGE in relation to urban planning, specifying in particular in relation to protection against flooding risks. The Circulaire reminds the principle of compatibility of urban planning documents with the fundamental objectives of the SDAGE and the obligation to put in conformity the urban planning documents within 3 years in case their provisions are in contradiction with the SDAGE.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are Regional offices of the French
Ministry of environment (DREAL) and the Departmental office of the French Ministry of agriculture (DDT).

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

DREAL and Departmental water Office (MISE) are mainly in charge with information, administrative treatment of permits files and general controls. ONEMA administers controls and permits. MISE is composed of an intersectoral team dealing with water related issues. It is composed of representatives of various sectors administrations (Industry, agriculture, environment...) and provides a link for project managers. The authority responsible mainly depends on the type of water use (abstractions, pollutions...) and economic sector involved (industry, agriculture, household...)

Authorities for different water users are detailed in the table below (Table 5).

**Table 5: Permits and the Competent Authorities**

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Regional offices of the French Ministry of agriculture (DDT) for irrigation abstractions</td>
</tr>
<tr>
<td></td>
<td>Regional offices of the French Ministry of environment (DREAL) for all others users (industries, municipalities, leisure...)</td>
</tr>
<tr>
<td>Impoundments</td>
<td>Regional offices of the French Ministry of environment (DREAL) and ONEMA for metrology</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>Regional offices of the French Ministry of environment (DREAL) and ONEMA for metrology</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>Regional offices of the French Ministry of environment (DREAL) and ONEMA for metrology</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>Regional offices of the French Ministry of agriculture (DDT)</td>
</tr>
<tr>
<td></td>
<td>MISE</td>
</tr>
<tr>
<td></td>
<td>Regional offices of the French Ministry of environment (DREAL) and ONEMA for establishing metrology</td>
</tr>
</tbody>
</table>

Because different authorities are responsible for permitting for the different water users, there is a requirement for coordination/communication. Databases on abstraction, discharges permits...etc, are all hosted and managed by the Regional offices of the French Ministry of environment (DREAL), which is in charge of delivering permits.

### 7.2 Permit applications

The process for application for a permit is described below.

The process varies depending on the size and potential impact of the project: authorisation process for larger scale projects, simple declaration for smaller infrastructure. Thus the 2 processes follow the structure below:

Authorisation process (project larger than the threshold indicated by French water "nomenclature") 1) Project manager sends his authorisation file to the local water Office
(MISE) 2) "Completude": Step to check if file is complete 3) "regularité": The application is instructed by the water policy department. Consultation of other public bodies if necessary 4) "Avis potentiel de l'autorité environnementale", if an impact analysis is required the DREAL is consulted to give his opinion on the project 5) "Enquête Publique": Public Consultation 6) "Avis du CODERST": Opinion of the department committee for environment and risks 7) "Décision du préfet": decision of the departmental representative of the French president; 8) "Information et publicité": information and publication on the decision.

Declaration process (project smaller than threshold indicated by French water "nomenclature") 1) Project manager send his declaration file to the local water Office (MISE) 2) "Completude": Step to check if file is complete 3) "regularité": The application is instructed by the water policy department. Consultation of other public organism if necessary 4) "Décision du préfet": decision of the departmental representative of the French president; 5) "Information et publicité": information and advertisement on the decision.

Scales and types of pressure are taken into account through the thresholds indicated by French water "nomenclature".

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management.

The 3 following steps of the authorisation process provide more neutrality in the decision: 5) "Enquête Publique": Public consultation to collect public opinion on the project 6) "Avis du CODERST": Opinion of the department committee for environment and risks composed of representatives of various stakeholders and municipalities. 7) "Décision du préfet": decision of the departmental representative of the French president who has a larger view on the economic, social, environmental impact of the project.

### 7.3 Enforcement of permits: authorities

In France, several authorities are in charge of ‘water police’ (police de l’eau) functions, i.e. the inspection of activities that create pressure on water bodies.

The inspectors working for the French National Agency for Water and Aquatic Environments (Office nationale de l'eau et des milieu aquatiques, ONEMA) control the application of the legislation on water use and on the aquatic environment. ONEMA has offices at the ‘département’ level (the departments are located at the third administrative level, below the national government and also below the regions). These controls are carried out within the framework of an inspection programme prepared in each département under the authority of the Prefect (the representative of the State at department level).

The Territorial Directorates of the Departments (Directions Départementales des Territoires, DDT), located in each Department, coordinate ‘police de l’eau’ functions at department level. These Directorates report to the national Ministry of Ecology, Sustainable Development, Transport and Housing (Ministère de l'écologie, du développement durable, des transports et du logement); and to the Prefect of the Department.
Inspectors for classified installations are organised under the Regional Directorates for environment, planning and housing (Directions Régionales de l’environnement, de l’aménagement et du logement, DREAL): they carry out inspections of industrial facilities, including whether they comply with the water legislation (e.g. controls on the discharge of waste water, pollutants into water). The DREAL report to the national Ministry of Ecology, Sustainable Development, Transport and Housing, one the one hand; and to the regional government on the other. The DREAL are in charge of the ‘water police’ at regional level.

(In Ile de France, there is a single Regional and Interdepartmental Directorate for Environment and Energy (Direction Régionale et Interdépartementale de l’Environnement et de l’Énergie) rather than a separate DREAL and DDTs.)

Starting in 2011, the water police functions are being reorganised and integrated with nature police functions, to create a single approach to environmental police.

The gendarmerie (military force charged with police duties among civilian population) and local authorities are also competent to issue violation notes in case of infringements to water law and water pollutions.

Both the regions and the departments are key administrative levels for the organisation and coordination of enforcement related to water.

France does not have a strict division of enforcement by economic sector. It should be noted, however, that the Regional Directorates for environment, planning and housing (DREAL) are in charge of the inspection of approximately 45,000 installations in France which are ‘classified’ for their environmental impacts. These include facilities subject to the IPPC and Seveso Directives as well as smaller facilities. Most classified installations are industrial facilities; however, livestock raising and other sectors are also included. The DREAL control whether these classified installations correctly apply the water legislation (e.g. discharge of pollutants in water bodies, wastewater coming from these installations).

In general, the same authorities cover different types of permits.

The Regional Directorates for environment, planning and housing control whether the conditions under the authorisation/registration or declaration for operating classified installations are applied by operators. This may include water related requirements.

ONEMA is charge of enforcing other types of water-related permits (e.g. point-source discharge, abstraction impoundment).

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities

In each department, there is an office – the Interservice mission for water (Mission interservices de l’eau, MISE) – that coordinates the work of public authorities on water issues, including enforcement. In addition, the Prefect for each department sets an annual water enforcement plan.
7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are separate entities. Coordination takes place through the Interservice missions for water (see above), organised at regional level, and through the enforcement plans at department level.

7.5 Enforcement actions

7.5.1 Number of inspectors
Across France, almost 1200 inspectors (FTE) were available for inspections of the 45,000 classified facilities located in France (these include facilities subject to the IPPC and Seveso Directives as well as smaller facilities). These inspectors work across all areas of environment, including water.

ONEMA’s water and aquatic environment police has about 600 inspectors who work across France.

7.5.2 Number of inspections
In 2009, over 25,000 inspections were carried out across the country’s 46,000 classified installations, which include facilities subject to the IPPC and Seveso Directives as well as smaller facilities. In that year, over 2500 inspections were carried out in Ile-de-France: of these, almost 1500 were ‘in-depth’ inspections, and most of the rest were ‘regular’ inspections (courantes). These numbers refer to inspections of all types, including water-related issues.

7.5.3 Number of infringement actions
In 2009, the inspections of classified facilities across France led to 2870 mises en demeure (formal notices issued by prefects), 1400 procès-verbaux d’infraction (violation notices issued by inspectors) and 350 sanctions administratives (administrative sanctions). Information for water-related violations was not found.

7.5.4 Other mechanisms (in addition to inspections)
Each year, the Ministry defines priority actions for the inspection of classified installations. For instance, one of the priorities for inspectors in 2011 is to focus on measures to be followed by classified installations to contribute to the good status of water bodies in 2015 as required under the Water Framework Directive.

ONEMA focuses on the most sensitive environments and on the priority issues targeted by the Water Framework Directive.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
Both administrative and criminal sanctions can be brought for violations of water permits and of water legislation.

Under administrative sanctions, authorities can require a user to undertake monitoring and analyses, to carry out works to redress a problem; and to suspend certain activities. (Code de l’environnement, Titre I, Chapitre VI, Section I.)

A range of criminal sanctions are also set out in France’s environmental code. For example, pollution of waters harming flora or fauna can be punished with up to two years of imprisonment and 75,000 Euros in fines. Courts can also require parties to
restore the aquatic environment. For carrying out an activity without the necessary permit: up to two years of prison and 18,000 Euros of fine. Continuing an activity despite a suspension order can be punished by up to two years of prison and 150,000 Euros in fines. (Code de l’environnement, Titre I, Chapitre VI, Section II.)

IPPC and classified installations: infringements of legislation on classified installations can lead to the following criminal sanctions: one year imprisonment and/or a fine of 75,000 Euros.

The prefect can also apply the following administrative measures after the issuance of a letter of formal notice:

- Suspension by the prefect of the operation of the facility until the operator complies with the letter of formal notice requirements
- If an operator fails to comply with the letter of formal notice requirements the prefect may, if necessary, order the closure or removal of the facility.
- The prefect may proceed to the sealing of a facility that is maintained or operated in contravention of a measure of removal, closure or suspension.

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
No information found.

7.7.2 Weaknesses of the system of inspections and enforcement
No information found.

7.7.3 Influence of the WFD and the RBMPs on enforcement
No information found.
8 References


http://www.aquaref.fr/


Code de l’environnement

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French legislation Agence de L’eau

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ONEMA: http://www.onema.fr/

ONEMA, EauFrance web site, especially: http://www.eaufrance.fr/?rubrique28&id_article=104

Organisation de la gestion de l’eau en France Office de l’eau June 2009

Qualité des eaux de baignade, établissement des profils des eaux de baignade - Mise en oeuvre de la directive européenne « eaux de baignade »,2006/7/CE - AERMC 2010

River basin management plan RBMP

1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Government, Minister of Rural Development</td>
<td>Local authorities; General Directorate of Water Management (&amp; regional water directorates); National Institute for Environment</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Government; Minister of Rural Development; General Directorate of Water Management (&amp; regional water directorates); National Institute for Environment; National &amp; Regional Water Management Councils</td>
<td>Ministry of Interior; National Public Health and Medical Officer Services</td>
</tr>
<tr>
<td>Monitoring</td>
<td>National Institute for Environment; General Directorate of Water Management ( &amp; Regional Water Directorates); Regional Environment, Nature and Water Inspectorates</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Regional Inspectorates for Environment, Nature and Water; Local Government authorities</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Ministry of Rural Development;</td>
<td>Local authorities</td>
</tr>
</tbody>
</table>
The main competent authorities responsible for the implementation of the WFD are described below.

Both the government as a whole and the minister responsible for environment and water management (i.e. Minister of Rural Development)\textsuperscript{108} are involved in the implementation of the WFD. Pursuant to Article 2 of Act LVII of 1995, the Government is responsible for, inter alia, the development and implementation of the national water management policy, and the development of specific policies for the protection of waters. The Government and in particular the minister responsible for environment and water management holds the overall responsibility for the preparation of the river basin management plan. The minister responsible for environment and water management is responsible also for e.g., the enforcement of environmental law, the regulation of activities necessary for the recovery of water damages.

Local authorities also play a key role in the implementation of the Water Framework Directive. Pursuant to Article 4 of Act LVII of 1995, local authorities are responsible for, inter alia, the development and implementation of common water utility plans, local water management, recovery of damages caused by water, the management of inland drainage and for ensuring the proper functioning of common water supply. Local authorities also hold the overall responsibility for the enforcement of environmental rules at local level.

The main administrative authorities dealing with the enforcement of environmental and water management laws are: (1) the Ministry of Rural Development, and (2) the National Inspectorate for Environment, Nature and Water and the 10 regional inspectorates. The Ministry of Rural Development is responsible for the supervision of the activities of the National and the regional inspectorates. As referred to above, local authorities also have some enforcement powers.

It is noteworthy that at the beginning of 2012, some water related tasks have been given also to the Ministry of Interior, which is now responsible e.g., for the supervision of the activities of the General Directorate of Water Management and its 12 regional water directorates as well as for the supervision of the bodies dealing with natural disasters.

In addition to the changes introduced to the institutional set-up of the central administration, and in order to better fit the structure of the rest of the public administration to this change, the Government abolished the Central Directorate of Environment and Water (by the adoption of Government Decree 300/2011(XII.22.), which tasks have been taken over by two separate bodies, namely by the General Directorate of Water Management and its 12 regional water directorates (under the supervision of the Ministry of the Interior) and the National Institute for Environment and its 12 branch offices (under the supervision of the Ministry of Rural Development).

As regards their competences, the General Directorate of Water Management and its regional water directorates hold responsibility for the elaboration of the WFD

\textsuperscript{108} Before the adoption of Act XLII of 2010, the Ministry of Environment and Water
groundwater quantity monitoring programme and monitoring of the volume and level or rate of flow of surface waters and some other water management related tasks (e.g., flood protection, maintenance and operation of state owned waters, ensuring the compliance with water objectives, implementation of certain water related projects, such as the Drinking Water Quality Improvement Programme or hydromorphological projects to improve the status of surface waters). The General Directorate of Water Management and its regional water directorates are also involved in the preparation and implementation of the RBMPs.

The National Institute for Environment and its 12 branch offices can be seen as an expert body which is involved in the review of RBMPs, status assessment of waters, coordination of monitoring programmes, preparation of national programmes (e.g., the elaboration of the national water management concept) and reports (e.g., report on the sewage sludge management in agglomerations, or WFD reports), and which is responsible for providing expert advice and other types of assistance (e.g., preparation of the draft RBMP) to the Ministry of Rural Development.

The legal basis for the adoption of the RBMP is set out in Act LVII of 1995 on water management and in Government Decree 221/2004(VII.21.) on the rules of river basin management. The Government adopted the RBMP in 2010 in form of Government Decision 1127/2010 (V.21.). However, as of 2010, Government Decree 221/2004 (VII.21.) required the Minister responsible for water to adopt the RBMP in form of a ministerial decree. Later in 2010, Hungary’s Constitutional Court ruled that the legal form promulgating the RBMP was wrong and annulled Government Decision 1127/2010 (V.21.).

Following the annulment of the RBMP, the Government amended Act LIII of 1995 and Government Decree 221/2004 (VII.21.) to state that a government decision was required for the promulgation of the RBMP. In 2012, the Government adopted the RBMP (with the same content as the one from 2010): the Hungarian RBMP is annexed to Government Decision 1042/2012(II.23.).

In 2011 (i.e. after the preparation of the RBMP in 2010), besides the modification of Act LVII of 1995 and relevant ministerial decrees with Ministerial Decree 147/2011 (XII.23.) the Government also adopted Decree 300/2011 (XII.22.), which has introduced certain changes to the institutional set-up of bodies dealing with the implementation of the WFD (see above).

As explained above, the Central Directorate of Environment and Water was abolished in 2011, and its tasks have been taken over by the National Institute for Environment (and its 12 branch offices) and by the General Directorate of Water Management (and its 12 regional water directorates). This change was necessary considering the division of tasks between the Ministry of Interior and the Ministry of Rural Development.

1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

In Hungary the following pieces of legislation transpose the main provisions of the WFD and set the main tasks for the competent authorities:

- Act LVII of 1995 on water management
- Act LIII of 1995 on general rules of environmental protection  
- Government Decree 219/2004 (VII.21.) on the protection of ground waters  
- Government Decree 220/2004 (VII.21.) on the protection of surface waters  
- Government Decree 221/2004 (VII.21.) on certain rules applicable to river basin management.

In addition to the above, Government Decree 347/2006 (XII.23.) on the designation of administrative bodies responsible for the tasks related to environment and nature protection and water issues (including enforcement and management) describes the remits of the administrative bodies.

In line with the above listed pieces of legislation, the following bodies are involved in the implementation of the WFD, regardless the type of waters:

- Ministry of Rural Development: responsible for implementation, management and enforcement,
- Ministry of Interior: responsible for implementation of quantitative monitoring
- National Institute for Environment and its branch offices: expert institute, involved in elaboration of RBMPs, and WFD Reporting, coordination evaluation and development of WFD monitoring,
- General Directorate of Water Management: coordination of quantitative monitoring activities,
- Regional Water Directorates: responsible for quantitative monitoring activities, and involved in hydromorphological issues, participating in planning and implementation of RBMPs
- National Inspectorate for Environment, Nature and Water: enforcement authority,
- 10 regional inspectorates: permitting, controlling and enforcement authority, and responsible for qualitative monitoring; participating in planning and implementation of RBMPs
- local governmental authorities: responsible for water management and enforcement at local level.

For the protection of specific type of waters (e.g., groundwater, surface water) the above legislation may set specific tasks for the competent administrative bodies.

There is no information on whether co-ordination among the different authorities for the management of different water categories is formalised.

1.2 Authorities involved in preparing and approving the RBMPs

Pursuant to Article 2(1)(m) of Act LVII of 1995, the preparation of RBMP(s) falls under the remit of the Government. In practice the minister responsible for environment and water management is the member of the Government who holds the overall responsibility for the development of the RBMPs (Article 3(3) of Government Decree 221/2004(VII.21.). (In practice, Hungary has a national RBMP and sub-basin (sub-unit) and planning unit RBMPs – please see below for further information.)

Following the recent reorganisation of Government, the National Institute for Environment and its branch offices (these latter ones are involved in the preparation of sub-basin and planning unit RBMPs) prepare the RBMPs under the supervision of the Minister responsible for environment and water management. The National Institute for
Environment is under a legal obligation to cooperate with administrative authorities and bodies dealing with water management, and protection of environment (e.g., with the regional water directorates and the regional environment, nature and water inspectorates). Following the preparatory phase, the draft RBMPs are submitted to the National Water Management Council and its regional councils (regional councils are involved in the consultation process of sub-basin and planning unit level RBMPs), which are the bodies responsible for ensuring that the RBMPs are adopted on a sound professional and scientific basis and play a key role in the organisation of the public consultation phase. The Water Management Council consists of representatives of local authorities (e.g., Alliance of Hungarian Local Authorities) and users (e.g., Hungarian Chamber of Commerce and Industry, Hungarian Chamber of Agriculture).

It is important to note that instead of the National Institute for Environment, the Central Directorate of Water and Environment (and its regional directorates) was involved in the preparation of the current RBMPs, as this took place before the reorganisation. As referred to above, the Central Directorate of Water and Environment does not exist anymore and its tasks have been taken over by the General Directorate of Water Management and the National Institute for Environment. Pursuant to Article 3(3) of Government Decree 221/2004 (VII.21.), the tasks related to the preparation of river basin management plans have been taken over by the National Institute for Environment (as described above).

1.2.1 Coordination mechanisms to deal with multiple authorities
The Minister responsible for the preparation of the RBMPs is the Minister of Rural Development.

- National Institute for Environment (NEI): NEI is a central state budgetary organ, which is entitled to manage its budget and organise its operation. NEI is led by the Minister responsible for environment and water management (i.e., the Minister of Rural Development), who within his/her remit may e.g., establish, restructure or wind-up the operation of NEI, approve its funding document, designate its director and its main financial officer, order NEI to report on its functioning etc. NEI has one central and 12 branch offices. As explained above, NEI acts as a background/expert institute, dealing with substantial questions related to water management and water protection and with other environmental branches.

- National Water Management Council (NWMC) is a consultative body, which does not have legal powers. Pursuant to Article 12 of Government Decree 5/2009(IV.14.), NWMC is responsible for informing the general public on the tasks that emerge during the preparation of RBMP, providing expert opinion on the draft RBMP, elaborating amendments to the RBMP and if needed completing the RBMP. NWMC consists of many stakeholders, including the representatives of the responsible ministries, the National Institute for Environment, the National Inspectorate for Environment, Nature and Water, academics, non-governmental organisations etc.

It is noted that in addition to the nation-wide RBMP, Hungary has sub-basin (sub-unit) level RBMPs and planning unit level RBMPs. In general the bodies involved in the elaboration of the sub-basin/planning unit level RBMPs are the branch offices of the National Institute for Environment (as the body responsible for the preparation) and the regional/planning-unit level water management councils (as consultative bodies). The branch offices of the National Institute for Environment are obliged to co-ordinate with
the permitting, controlling and enforcement authorities, which at regional level are the regional environment, nature and water inspectorates and with the regional water directorates and the nature conservation parks.

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

Government Decree 221/2004(VII.21.) does not designate a separate body for the preparation of the programme of measures. This and the fact that the programme of measures are part of the RBMP indicate that the same bodies are involved in the preparation of the PoMs as in the preparation of the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The authorities that request monitoring are described below.

The minister responsible for water (i.e., Minister of Rural Development) holds the overall responsibility for the quality of waters. The National Institute for Environment together with the General Directorate of Water Management prepares the annual plans for quantitative monitoring activities.

In accordance with Ministerial Decrees 31/2004 (XII.30.) and 30/2004 (XII.30.)the minister responsible for environment and water is in charge of ensuring the development and the operation of monitoring. The actual biological monitoring of surface waters and the chemical monitoring of surface and groundwater bodies is carried out by: administrative authorities on the one hand, and water/environment users (e.g., economic actors using waters, or discharging sewage sludge, farmers, industrial installations etc.) on the other hand. The main authorities responsible for the monitoring of surface waters are: regional environment, nature and water inspectorates (qualitative monitoring) and the regional water directorates (quantitative monitoring).

Pursuant to Article 5(3) of Government Decree 219/2004 (VII.21.), the minister responsible for water management (i.e., Minister of Rural Development) is in charge with the designation, supervision and monitoring of groundwater bodies. The main authorities involved in the monitoring of groundwater bodies are: the regional water directorates, the Hungarian Office for Mining and Geology and the regional environment, nature and water inspectorates. In addition to authorities, water users are also involved in the monitoring. The detailed rules applicable to the monitoring activities of administrative authorities (also called as territorial monitoring) and water users (also called as environmental use monitoring) are set out in Ministerial Decree 30/2004(XII.30.).

Regarding the monitoring of protected areas, it is noteworthy that other administrative authorities may also be involved. As an example, in line with Government Decree 78/2008 (IV.3.), the National Public Health and Medical Officer Services (as part of the county level governmental offices) are also involved in the monitoring of bathing-water bodies and the quality of drinking waters (tap-water).
The above referred legislation does not designate separate bodies for the different types of monitoring i.e., surveillance, operational and investigative monitoring.

In terms of co-ordination between the different actors, the following conclusion can be reached:

- The main body co-ordinating the work of the different administrative bodies involved in the monitoring of water bodies is the Government, through the minister responsible for environment and water management (Minister of Rural Development) and the Minister of Interior (as the body supervising the operation of the General Directorate of Water Management and its regional directorates). Rules applicable to the formal co-ordination mechanisms between e.g., regional environment, nature and water inspectorates and the regional water directorates are not set out in applicable legislation.

- In Hungary the main enforcement authority is the National Environment, Nature and Water Inspectorate and its regional offices. In cases, where the water users do not comply with their monitoring obligations, the competent inspectorate may order the water user to complete or amend the monitoring data (Article 6 of Government Decree 219/2004(VII.21.).

Monitoring is undertaken through the authority’s own facilities and staff.

The authorities described above are responsible for all three types of monitoring (surveillance, operational and investigative).

There are slight differences in the authorities responsible for monitoring the different water categories, as outlined in the table below (Table 2).

**Table 2: Summary of authorities responsible for monitoring in different water categories**

<table>
<thead>
<tr>
<th>Water category</th>
<th>Responsible authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>National Environment, Nature and Water Inspectorate and its regional offices, General Directorate of Water Management and its regional directorates,</td>
</tr>
<tr>
<td>Transitional</td>
<td>N/A</td>
</tr>
<tr>
<td>Coastal</td>
<td>N/A</td>
</tr>
<tr>
<td>AWBs</td>
<td>National Environment, Nature and Water Inspectorate and its regional offices, General Directorate of Water Management and its regional directorates</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>In addition to the above, water users and the Hungarian Office for</td>
</tr>
</tbody>
</table>
### Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

#### 3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>The ministry responsible for environment and water (the Ministry of Rural Development) is the main responsible authority. Planning of the national program, reporting to the EU about implementation, and also for permitting the installations (by regional inspectorates) also fall under the remit of the minister responsible for environment and water. Local governmental authorities are also involved in the implementation of the Urban Waste Water Treatment Directive, e.g., by establishing urban waste water agglomerations. The local governments’ main task is to ensure the operation of public water services for the inhabitants The management of sewage sludge is dealt with by the public water services. Since the adoption of Act CCIV of 2011 on public water services, the Ministry of National Development (through the National Energy Office) is responsible for the determination of the prices of public water services. The authorities involved in the development and implementation of the UWWTD (and also for controlling their operation from environmental aspects) and the RBMP are basically the same.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>The main responsible authority is the minister responsible for agriculture (which is the same as the minister responsible for environment and water. It is noteworthy that earlier- during the 1st RBM planning period these tasks were shared between two ministries (Ministry of Environment and Water, Ministry of Rural Development). Thus, the main authorities (except for the plant and arable land directorates) involved in the development and implementation of the</td>
</tr>
<tr>
<td>Directive</td>
<td>Details</td>
</tr>
<tr>
<td>-----------</td>
<td>---------</td>
</tr>
<tr>
<td>Nitrates Directive and the RBMP</td>
<td>Nitrates Directive and the RBMP are partly the same, i.e., as they partly belong to the same ministry (e.g. national and regional agricultural inspectorates, supervising the implementation of good agricultural practice and responsible for ensuring compliance with the requirements of NiD and WFD).</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>The leading responsible authority is the Minister responsible for health (i.e., the Minister of Human Resources), as well as the regional offices of the National Public Health and Medical Officer Service, which operate under the supervision of the Ministry. Since the beginning of 2011 its regional offices are part of the regional government offices. Rules applicable to the protection of bathing waters have been developed by the Government (e.g., Government Decree 78/2008 (IV.3.). The regional environment, nature and water inspectorates act as enforcement authorities, but they are also involved in the designation (permitting) of bathing waters and controlling their operation from environmental aspects.</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>One of the main bodies is the Minister responsible for environment and water management (the Ministry for Rural Development), which is also in charge of developing the RBMPs. The task of this ministry is mainly to ensure water allocations for drinking water supply, the protection of drinking water resources, the planning of national programs for drinking water supply. From point of view of drinking water quality (tap waters) the Ministry of Human Resources holds the overall responsibility. The regional environment, nature and water inspectorates act as permitting authorities with the involvement of the National Public Health and Medical Officer Service. The control of tap water quality is the task of the latter. The national laws determine the tasks of the different actors, and ensure and define the co-operation between them.</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>The main body involved in the implementation of the Floods Directive in Hungary is the Ministry of the Interior, in particular through the General Directorate of Water Management and its regional water directorates. These bodies are also involved in the preparation of the RBMP.</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>N/A</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>The main authority is the Minister of Rural Development which is also responsible for nature conservation and nature protection, mainly through the regional national parks directorates. These organisations are also involved into the implementation of WFD.</td>
</tr>
<tr>
<td>Climate</td>
<td>The main authority for climate-related issues is the Ministry of National</td>
</tr>
</tbody>
</table>
Development, but the water and climate relation issues (like too much water and less water) are handled by Ministry of Rural Development and Ministry of Interior.

### 3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (Table 4).

**Table 4: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Overall, the main responsible authority is the Ministry of Rural Development – which is also responsible for environment, including water and the development of the RBMP. The Ministry of Rural Development is supported by other regional level organisations, such as by the environment, nature and water inspectorates and the agricultural offices.</td>
</tr>
<tr>
<td>Drinking Water</td>
<td>The main responsible authority is the Ministry of Rural Development, which is also responsible for environment, including water and the development of the RBMP. Agencies under the Ministry will also have a role. The task of this ministry is mainly to ensure water allocations for drinking water supply, to protect drinking water resources, and to plan national programs for drinking water supply. From point of view of quality of drinking waters (tap waters) the Ministry of Human Resources holds the overall responsibility.</td>
</tr>
<tr>
<td>Water</td>
<td>The national laws determine the tasks of the different actors, and ensure and define the co-operation between them. Regional environmental, nature and water inspectorates are in charge of the designation of drinking water safeguard zones, with the involvement of the National Public Health and Medical Officer Service. The control of tap water quality is the task of the latter. In addition, local governmental authorities will play a role, in particular for the supply of drinking water.</td>
</tr>
<tr>
<td>Wastewater</td>
<td>The main authority is the Ministry of Rural Development, which is also responsible for environment, including water and the development of the RBMP. Bodies under the Ministry will also play a role. Since the adoption of Act CCXI of 2011, the Ministry of National Development (through the Hungarian Energy Office) has been also responsible for determining the price of public water services.</td>
</tr>
<tr>
<td></td>
<td>Local governmental authorities are also involved in the implementation of the Urban Waste Water Treatment Directive, e.g., by establishing urban</td>
</tr>
</tbody>
</table>
waste water agglomerations. The local government’s task is to ensure the operation of public water services for the inhabitants. The management of sewage sludge is dealt with by the public water services.

### Energy

The main authorities will be:
- The Ministry of National Development,
- The Hungarian Energy Office under this ministry.

The Ministry of National Development is responsible for measures relating to industrial emissions in the PoM of the RBMP; has a representative in the NWMC, is involved in the negotiations of the legal drafts.

### Transport

The main authorities are:
- Ministry of National Development,
- National Transport Authority under the ministry.

The Ministry of National Development is responsible for measures relating to industrial emissions in the PoM of the RBMP; has a representative in the NWMC, is involved in the negotiations of the legal drafts.

### Industry

**IPPC**

For industry, the Ministry of National Development is the main authority for generally dealing with economy and industrial production. For the power sector, the Hungarian Energy Office under this ministry would also play a role. IPPC facilities can include large livestock-raising facilities: here, the Ministry or Rural Development is responsible.

The Ministry of National Development is responsible for measures relating to industrial emissions in the PoM of the RBMP; has a representative in the NWMC, is involved in the negotiations of the legal drafts.

**Non IPPC**

For other industry, the Ministry of National Development is responsible.

### Mining

As regards mining, the main authorities are:
- Ministry of National Development
- the Hungarian Office for Mining and Geology under the Ministry.

The Ministry of National Development is responsible for measures relating to industrial emissions in the PoM of the RBMP; has a representative in the NWMC, is involved in the negotiations of the legal drafts.

### Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

In line with Article 3(3) of Government Decree 221/2004 (VII. 21.), the minister responsible for water management held the overall responsibility for the preparation of the national RBMP. The body responsible for the co-ordination of the preparatory process was the Central Bureau of Environment and Water. Following the end of the preparatory phase, the draft national RBMP was submitted to the National Water Management
Council, which is a body responsible for ensuring that the RBMP is adopted on a sound professional and scientific basis and plays also a key role in the organisation of the public consultation.109 The National Water Management Council is a body through which the involvement of stakeholders in the preparation of the RBMP was ensured, as it has members representing local authorities (e.g. Alliance of Hungarian Local Authorities) and users (e.g. Hungarian Chamber of Commerce and Industry, Hungarian Chamber of Agriculture).110

The legal obligation of involving stakeholders through a public consultation process in the preparation and revision of the RBMP is set out in Article 19 of Government Decree 221/2004 (VII.21.). In line with the requirement of Article 19, the public consultation phase of the draft RBMP took place between December 2008 and November 2009. Hungary also launched an online forum, through which stakeholders could get access to information on the planning process and comment on the draft version of the RBMP.111

The summary of public consultation process also with involved stakeholders is included in the 10th chapter of RBMP Government Decision 1127/2010 (V.21.) and 1042/2012 (II.23.).112

It is noted that since the adoption of the national RBMP, Article 3(3) of Government Decree 221/2004(VII.21.) has been amended. In line with this amendment it is no longer the Central Directorate of Environment and Water that is responsible for the co-ordination of the preparation of the RBMP, but the National Institute for Environment. This indicates that the revision of the RBMP will be co-ordinated by this new body. Rules applicable to the competence of the National Institute for Environment are set out with the amendment of Government Decree 347/2006 (XII.23.).

There was no legal basis identified in the assessed legislation for the involvement of stakeholders in the implementation of the RBMP except the National and Regional Water Management Councils regulated in Ministerial Decree 5/2009. However, it does refer to stakeholders in the context of implementing the programme of measures (Section 8.1.3. of the RBMP). For each programme, the RBMP specifies the authorities that are responsible for its implementation and refers to stakeholders which (e.g. local authorities, producers of agricultural products) could be involved in the implementation phase.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD. As noted above, the current Government has restructured the institutional set-up of the Hungarian public administration dealing with water governance. These administrative changes were based on a political decision of the government. But on the basis of the political decision in refining the special duties of the newly created organisations (like National

110 List listing all members of the National Water Management Council is available under the following URL: http://www.vizeink.hu/files/OVT%20SZMSZ.pdf
111 http://www.vizeink.hu
112 The list of stakeholders involved in the public consultation phase of the draft RBMP is also accessible under the following URL: http://www.vizeink.hu/files2/100505/Orszagos_VGT0516.pdf.
Environmental Institute), or the modified tasks of the organisations (like regional water directorates) took into consideration the WFD relating tasks as well.

As well as not creating any new authorities, no significant changes have been made to existing authorities as a result of the WFD.

### 5.2 Organisation structure

The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

![Structure of water management organisations in Hungary](image)

**Structure of water management organisations in Hungary**

*(From 1st of January 2012)*

### 6 Analysis of the nature of RBMPs

#### 6.1 Characterisation of the legal status of the River Basin Management Plan

There is no legal instrument that formally regulates the legal effect of the RBMP; its legal effect is a consequence of its nature as a Government Decision (described above). However, legal value is given to the RBMP by other laws that provide direct reference to the RBMP. As an example, such direct reference was identified in the transposing legislation of the Floods Directive,\(^ {113} \) i.e., in Government Decree 178/2010 (V.13.), which sets that the objectives of the RBMP must be taken into account while developing plans for the management of flood related risks. Other direct reference examples are in the Government Decree 219/2004 (VII.21.) e.g. the inspectorates have to take into the consideration the content of the RBMP when they give licences for water production or discharge.

Hungary has one river basin district which is the Danube river basin district. This district is an international water course that Hungary shares with Slovakia, Austria, Germany, Croatia, Serbia, Romania, Bulgaria, Moldova and Ukraine. The Danube basin has its own River Basin Management Plan which deals with issues of basin-wide importance and is co-ordinated by the International Commission for the Protection of the Danube River (ICPDR). Each country of the Danube river basin has elaborated a national River Basin Management Plan (hereinafter referred to as RBMP).

The legal basis for the adoption of the Hungarian RBMP is set out in Act LVII of 1995 on water management and Government Decree 221/2004 (VII.21.) on the rules of river basin management. Government Decree 221/2004 (VII.21.) and in particular its Article 3(5) required the Minister responsible for water (i.e., the Minister of Rural Development) to adopt the RBMP via a ministerial decree. However, the Government adopted the RBMP in form of a government decision (i.e., Government Decision 1127/2010 (V.21.)). The Hungarian Constitutional Court ruled\textsuperscript{114} that the legal form promulgating the legal act was wrong and annulled Government Decision 1127/2010 (V.21.). Following the Court decision, the Government amended Government Decree 221/2004 (VII.21.) in a way that Article 3(5) is no longer mentioned in the legal text. Moreover, Article 18(7) of Act LIII of 1995 was amended to require a government decision for the adoption of RBMP.

In 2012, the Government adopted the RBMP (with the same content as the RBMP adopted in 2010) in form of Government Decision 1042/2012 (II.23.).

\textbf{6.1.1 Legal effect}

The RBMP was adopted in form of a Government Decision. Government decisions can be adopted for organisational, functional and operational planning purposes and they fall under the category of ‘legal means regulating operational issues’ (‘\textit{kozzogi szervezetszabalyozo eszköz}’).\textsuperscript{115} ‘Legal means regulating operational issues’, including government decisions, cannot be considered as formal sources of law, as they do not create rights and obligations for individuals. Thus, government decisions have legally binding effects only on public authorities. Pursuant to Article 24(1) of Act CXXX of 2010, ‘legal means regulating operational issues’ cannot contradict formal sources of laws.

In addition to the answer provided above, it is noted that the fact that the RBMP was adopted in form of a Government Decision suggests that it is not directly binding on individuals but on public authorities. This implies that administrative decisions that allow activities that are contrary to the RBMP can be brought before the court.

Moreover, the Hungarian laws often refer to good water quality and to environmental objectives that are set out in Article 4 of the Water Framework Directive. As an example, Article 18(5) of Act LIII of 1995 stipulates that environmental objectives must be taken into account while planning and carrying out activities that concern the environment. Environmental objectives are also referred to in Article 7 of Government Decree 220/2004 (VII.21.) on the rules applicable to the protection of the quality of surface waters. According to this Article, environmental objectives need to be taken into account e.g. in spatial planning plans, or in the environmental plans of local authorities.

\textsuperscript{114} Decision of the Constitutional Court 6/2011 (II.3.).

\textsuperscript{115} This category was introduced by Act CXXX of 2010 on legislation.
6.1.2 Legal status in relation to individual decisions

The RBMP calls for the revision of legislation applicable to permitting procedures, in order to make sure that existing and new installations comply with the environmental objectives of the Water Framework Directive. The RBMP considers the revision of the legislation applicable to permitting procedures as a necessary step for its implementation. The RBMP also calls for the revision of existing permits, without specifying a timeline. Legislation applicable to the water related permitting procedures partly contains the maximum time-limit of permits, it is generally 4-5 years. (E.g. Government Decree 219/2004 (VII.21.) on the protection of ground water, Government Decree 220/2004 (VII. 21.) on protection of surface water bodies Government Decree 314/2005 (XII.25.) on environmental impact assessments and integrated environmental permits) contain a time-frame for the revision of existing permits. The general practise of the inspectorates that the new permits are issued with this timeframe. But the laws contain the possibility for the permitting authority to enforce the modification of permits at any time, if the environmental interests require the modification or the revision. (Or the users can apply for new permits also.) The permitting periods of the concrete permits and the RBMP dates are not harmonised in Hungary, but the 1st RBMP’ POM contain the measure updating the most relevant permits.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations

There are over 38 hydropower installations in Hungary, most of which are considered as micro sized hydropower installations. In Hungary, hydropower installations can be classified in four categories:

- Large hydropower installations: with a capacity of over 5 MW.
- Medium sized hydropower installations: with a capacity of between 500kW-5MW.
- Small hydropower installations: with a capacity of between 100kW-500kW.
- Miniature sized hydropower installations: with a capacity of less than 100 kW.\textsuperscript{116}

Hydropower installations use surface water for industrial purposes, namely to generate electric energy (about 200,000 MWh/year). The total hydropower capacity of installations in Hungary is 50MW.

In line with Government Decree 72/1996 (V.22.) on the implementation of authority powers in water management and Act LVII of 1995 on water management, the establishment and operation of hydropower installations are subject to water permits.

Instead of water permits, integrated environmental permits are required for those hydropower installations that are located in a protected area of national importance. The rules applicable to integrated environmental permitting procedures are set out in Government Decree 314/2005 (XII.25.).

For harmonisation of timeframe of permitting procedures with RBMP cycles, see above.

\textsuperscript{116} Source: http://www.energiakozpont.hu/vizenergia/rendszerepites-fortelyok-engeledelyek.
It should also be noted that the operation of hydropower installations in Hungary is subject to concessions. The RBMP does not require for the revision of existing concessions.

Abstraction for agriculture

Since 1 January 2010 it has been mandatory in Hungary to apply for authorisation in order to use water for watering/irrigation purposes in the agriculture sector. The rules applicable to water permits are set out in Government Decree 72/1996 (V.22.) on the implementation of authority powers in water management and in Act LVII of 1995 on water management, so the water permit for the abstraction for agriculture is mandatory according to the Government Decree 72/1996.

Beside of water permits, integrated environmental permits are also required for water abstraction if:

- the agricultural land for which it would be used is bigger than 300 ha and the water use exceeds 0.45 m³/sec.
- the agricultural land is located in a protected area, NATURA 2000 area or a in a protected area of a cave.

In the above cases an integrated environment permit is required only if the activity would significantly affect the environment.

For harmonisation of timeframe of permitting procedures with RBMP cycles, see above.

IPPC and other industrial installations

The RBMP acknowledges that certain industrial activities may have negative impacts on the status of waters.

Under the current permitting system, most of these activities are subject to either environmental permitting or integrated environmental permitting procedures.

As described above, the RBMP requires for the revision of existing permits.

For harmonisation of timeframe of permitting procedures with RBMP cycles, see above.

6.2 Relationship with other sectoral policy plans

The relationship between the RBMP and other plans are not defined in the Government Decision, neither does the RBMP refers to deadlines for the revision of existing plans.

The RBMP refers to bodies that are involved in its implementation. By looking at the statutory documents of the most important public authorities (i.e. environment, nature protection and water inspectorates, environment and water directorates) involved in the implementation of the RBMP the following conclusions could be reached:

117 Source:
http://www.kolcsonosmegfelelteites.hu/K%C3%B6lcs%C3%B6n%C3%B6sMegfeleltet%C3%A9s/HMK%C3%81/HelyesMez%C5%91gazdas%C3%A9gi%C3%A9sK%C3%B3rnyezeti%C3%81llapot.aspx.

118 Those industrial activities that are listed in Annex I or Annex III of the Government Decree are subject to environmental permitting procedure.

119 Those industrial activities that are listed in both Annex I and II or just in Annex II, as well as in both Annex II and III of the Government Decree are subject to integrated environmental permitting procedure.
• Regional environment-, nature protection and water inspectorates (as first instance authorities) may be involved in land-use/spatial planning processes in case the activities concerned by such planning have environmental impacts e.g. when agricultural production starts in a land which was previously not subject to such production.

• Environment and water directorates (from 1 January 2012: Water Directorates) as well as the Central environment and water bureau (from 1 January 2012: Central Bureau for Water) are consulted during the development of territorial planning programmes and concepts.

No legislation exists as of today, which would formally require these authorities to take into account the requirements of the RBMP in land-use/spatial planning processes. However, Article 18(5) of Act LIII of 1995 and Article 7 of Government Decree 220/2004 (VII.21.) stipulate that environmental objectives must be taken into account by them while planning activities that concern the environment, which includes spatial planning as well as land-use planning processes.

The legislation applicable to flood risk assessment and management (Government Decree 178/2010 (V.13.)), however, sets that the main objectives of the RBMP as well as environmental objectives must be taken into account while setting the main objectives for the management of flood related risks. Government Decree 178/2010 (V.13.) also requires for the revision of risk assessment plans as well as maps indicating main risks zone in coordination with the revision of the RBMP.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

In accordance with Article 1(1) of Government Decree 72/1996(V.22.) the following authorities are responsible for permitting and licensing water abstractions and construction or installation works:

- regional environment, nature and water inspectorates,
- the local governmental authorities (specifically, the notary/clerk of the authority).

Pursuant to Article 24 of the same Decree, the following activities are subject to the notary’s permit:

- establishment, use, restructuring and ceasing of facilities processing sewage water (domestic and communal sewage water) not exceeding a total amount of 500 m3/year.
- establishment, use and closure of a well, which may provide up to 500 m³/year, exclusively for domestic use and which operates with the use of shallow groundwater.

Detailed rules on water related water permissions are based on the basic water legislation, namely on Government Decree 219/2004 (VII.21.) and Government Decree 220/2004 (VII.21.). As regards large (IPPC) environmental users Government Decree 314/2005 (XII.25.) on environmental impact assessment and environmental permits determines the process of how water related permit conditions have to be integrated into the integrated environmental permits.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

**7.2 Permit applications**
The process for application for a permit is described below.

Carrying out a water work (intervention) or establishing/operating a water installation can be subject to either a water permit or an integrated environmental permit. The construction of these types of installations or the intervention processes into the aquatic system and their operations that may have bigger impacts on the environment as such are subject to integrated environmental permits (see above).

There are four main types of water permits: (1) preliminary permits (permits that contain technical conditions and that are issued by the competent authorities prior to the establishment of the facility; not obligatory), (2) construction permits (permits that allow the permit holders, to establish water installations), (3) operational permits (permits that allow the permit holders to use waters and to operate water installations), (4) retrospective permits (permits that should be applied for in cases, where the installation was operating without a permit, or in non-compliance with the permit conditions, or where the water work was carried out in a manner that was not in compliance with the permit conditions).

The content requirements of applications are set out in Ministerial Decree 18/1996(VI.13.) and in Government Decree 72/1996(V.22.). This latter Decree also contains content requirements for the permits that the proceeding authorities need to respect while issuing the permits. Special rules and requirements of water permits are contained in Government Decrees 219/2004 (VII.21.) and 220/2004 (VII.21.). Rules applicable to integrated environment permits are set out in Government Decree 314/2005 (XII.25.).

The procedures of the competent authorities are determined by the general rules set out in Act CXL of 2004 on administrative procedures. In line with Act CXL of 2004 and Government Decree 72/1996(V.22.) permit procedures start with a permit application. The competent permitting authorities may request the applicant to provide missing information. Following the receipt of the request, the authority start processing the application. In principle the proceeding authorities have 30 days to decide on the permit. If the permit application is refused, the decision of the authority shall contain the detailed reasoning as well as information for the applicant on his/her right of appeal.
For abstractions, unless the activity is subject to integrated environmental permit, the procedure follows the same scheme described above. If an activity is believed to be subject to an integrated environmental permit, a preliminary environmental assessment precedes the permitting procedure.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management. Before 2005, the task of environmental permitting fell under the remit of the regional authorities which were also dealing with the management and operation of state owned waters and water installations. Since 2005 these tasks have been separated between the earlier mentioned regional environment, nature and water inspectorates and water directorates. It means that the permitting authorities and the permit applicant organisations are different.

The table below outlines mechanisms to avoid potential conflicts of interest Table 5).

**Table 5: Mechanisms to avoid potential conflicts of interest for different water uses**

<table>
<thead>
<tr>
<th>Water use</th>
<th>Mechanism to avoid conflict of interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>The authority responsible for permitting (i.e., the environment, nature and water inspectorate) is different from the public companies providing water distribution. In Hungary these public companies are mostly owned by local authorities (390) by the capital (2) and by the state (5). The public companies operate under the supervision of the Hungarian Energy Office. The promoters are different from the water management authorities.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>The regional inspectorate is the permitting authority, which is different from the public water distribution companies and from the companies managing Hungary’s hydropower installations and for other purposes. No specific mechanisms were found regarding conflict of interest – however, the promoters are different from the water management authorities.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>As above. Point source discharges can arise from municipal water companies (see above under abstractions) and from other water users (e.g. industry, services): these are separate from water management authorities.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>As above. Diffuse pollution might arise from urban storm water runoff, and thus need to be addressed by municipal water companies (see above). Diffuse pollution might also occur due to agricultural production. In such cases, the regional inspectorates are the permitting authorities, whereas the permit holders are mostly farmers. The promoters are different from the water management authorities.</td>
</tr>
</tbody>
</table>
Hydromorphological measures

Most of the hydrological alterations are in connection with flood protection, inland water protection, ensuring water e.g., for agricultural purposes and for other water management purposes. The permitting authority is different from the project’s owner organisations, which are mainly the water directorates. The bigger project plans have to be gone under an environmental impact assessment, and also the so-called Article 4(7) process as set out in the WFD, before the authorities decide on the permits. Hydromorphological alterations are an issue for Danube navigation, including European plans to increase navigation (under the TEN-T programme). Here, the Hungarian Ministry of National Economy would be responsible. Hydromorphological alterations might also arise from hydroelectric plants. These are currently state-owned, and it is believed that they are dependent on the Ministry of National Economy.

7.3 Enforcement of permits: authorities

Environment-related inspections are performed by administrative bodies for environmental protection. The administrative authorities responsible for inspections/enforcement of permits are: i) the Ministry of Rural Development (the ministry in charge of environment); and ii) the National Inspectorate for Environment, Nature and Water, and the 10 regional inspectorates. The Ministry is responsible for supervising the activities of the National Inspectorate and the regional inspectorates.

The National and Regional Inspectorates carry out the inspections of waterworks, water constructions and water uses. Waste water discharge has to be controlled, monitored permanently concerning quantity and quality. The inspectorates can carry out site inspections. Day-to-day matters and regulatory issues are dealt with by the regional inspectorates at first instance and by the National Inspectorates at second instance.

In addition, local governmental authorities have some powers for enforcement concerning environmental legislation (i.e., enforcement of environmental rules at local level).

The National Inspectorate for Environment, Nature and Water’s jurisdiction covers the whole territory of Hungary. The 10 regional inspectorates act as first instance authorities. The regional inspectorate’s administrative geographic area were designated on water catchment territorial level, which helps them in the co-ordination with e.g. water directorates, and also in planning and implementing the RBMPs.

As regards the cooperation between regional inspectorates and regional water directorates it is noteworthy that before 2005, enforcement and management related tasks were dealt with by the same bodies. In 2005, these bodies were abolished, and the Government established 12 regional inspectorates and 12 regional water directorates. In 2007, the number of regional inspectorates was reduced by two, as the tasks of the two smallest inspectorates were taken over by two bigger ones.

In addition to this historical link, these organisations cooperate in many other ways: e.g., the regional water directorates are sometimes the ones that ask for permits from
the directorates. Moreover, in some cases, the bodies are sharing common facilities (e.g., are located in the same building).

Local authorities can undertake certain enforcement actions within their territories.

There are no separate authorities responsible for enforcement of different economic sectors or different types of permits.

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities

The main enforcement authorities are the regional environment, nature and water inspectorates at first instance and the National Inspectorate for Environment, Nature and Water at second instance. In addition to the inspectorates, local governmental authorities also have some enforcement powers.

Rules applicable to the co-operation between local governmental authorities and the inspectorates are set out in applicable legislation. As an example, legislation applicable to bathing water requires the local governmental authorities, which are responsible for the designation of bathing water bodies, to consult the inspectorates. Moreover, it is the general obligation of local governmental authorities to notify the inspectorates all permits that they have issued.

#### 7.4.2 Between enforcement and water management authorities

The enforcement authorities and water management authorities are separate entities. The main enforcement authorities are the national and regional environment, nature and water inspectorates. In Hungary, the leading water management authority is the General Directorate of Water Management and its regional water directorates, which operate under the supervision Minister of Interior. (see above).

As explained above, there is a historical link between the regional inspectorates and the regional directorates. In addition to this link, applicable laws/decrees set rules for the co-ordination and co-operation between these authorities.

Also contributing to the good co-operation and co-ordination between the authorities is the fact that they often share facilities, e.g., they are often located in the same buildings.

### 7.5 Enforcement actions

#### 7.5.1 Number of inspectors

Relevant data are collected and aggregated by the National and the regional inspectorates. Data from 2010 show that there were about ~400 inspectors who worked on water-related permits and issues.

IPPC: While no data is available specifically related to water, in 2010, an estimated 145 inspectorate staff members worked on IPPC-related inspections.

#### 7.5.2 Number of inspections

Data from 2010 show that ~15,000 inspections were carried out (including administrative (65%) and on-the-spot inspections (35%) as well).
7.5.3 Number of infringement actions
About 2300 infringement actions were initiated in 2010 (including ~800 cases imposing a fine).

IPPC: In 2010, authorities required IPPC facilities to take actions in 101 cases, and imposed administrative fines in 134 cases. No information was found on the extent to which water issues were addressed in these cases.

7.5.4 Other mechanisms (in addition to inspections)
In addition to the inspections carried out by administrative authorities, the holders of water permits may also evaluate their own environmental performance in form of the so-called ‘environmental protection performance evaluation’ and request the regional inspectorates to approve it. The rules applicable for environmental protection performance are set out in Article 77 of Act LIII of 1995 on Environment Protection.

Moreover, the holders of water permits may also decide to participate in the EMAS system. The rules applicable to the use of EMAS are set out in Article 81/A of Act LIII of 1995. Under this provision, operators are expected to assess, manage and continuously improve their environmental performance.

In line with Article 27(1) of Government Decree 220/2004 (VII.21.), operators that discharge pollutants into surface water are obliged to carry out self-monitoring. Authorities may require operators to carry out self-monitoring in cases where the environment concerned with the discharge is in danger, or if the amount of waste water discharged exceeds 15 m³ per day as well as if the water into which the waste water is discharged is considered as a mixing zone.

Activities which may have an impact on groundwater quality have to be monitored and monitoring data, as well as other relevant information have to be reported to the authorities in accordance with Government Decree 219/2004 (VII.21.)

IPPC: Environmental audits can be carried out in order to investigate and assess the environmental impacts of the specific activities and check if the operator complies with the legal requirements.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
In Hungary, administrative, quasi-criminal and criminal sanctions can be brought for violations of environmental legislation.

Administrative sanctions related to water permits include the following:

In line with Articles 15 and 16 of Government Decree 72/1996 (V.22.) on the implementation of authority powers in water management, in cases where water works are carried out, or water installations are operating without a valid so-called ‘establishment permit’, the authorities may oblige the operators to apply for a ‘retrospective permit’. In addition to the permit, authorities can impose fines against the operators. The rules applicable to imposing fines are set out in Article 29(3) of Act LVII of 1995 on water management. Pursuant to this provision, the amount of fine is calculated as follows: (1) in case the installation was established without a valid permit, the maximum amount of fine cannot exceed 20% of the total value of the installation (2)
in case the water works were carried out without a permit the maximum amount of fine cannot exceed five times the amount of fine foreseen for the commission of the quasi-criminal offence relevant for the protection of waters (see below on quasi-criminal sanctions). The authorities may also decide to prohibit the operation of installations or cease water works carried out without a valid ‘establishment permit’. Should this be the case, the authorities, may also oblige the operators to tear down the installations.

Pursuant to Article 32 of Act LVII of 1995 on water management, in cases, where it is necessary in order to ensure the protection of waters, for the reduction of damages to the waters, or for the prevention of such damages, the authorities may order the operators to cease certain activities, to carry out certain activities, or the carry out activities in a certain way.

Pursuant to Article 31 of Government Decree 220/2004(VII.21.) on the protection of surface waters, the authorities may impose two types of fines against operators: ‘sewage fines’ and ‘water pollution fines’. The following activities of the operators may lead to the imposition of fines: exceeding the emission limit values, emitting polluting substances or substances the emission of which is forbidden. The formula on the basis of which the fines are calculated is set out in the Annexes of the Government Decree.

Authorities may also impose ‘water protection fines’ against operators who e.g., pollute accidentally or fail to comply with their self-monitoring obligation. The list of illegal activities that may lead to fines is provided by Article 35 of Government Decree 220/2004 (VII.21.).

In Hungary, Government Decree 219/2004 (VII.21.) on ground water protection states that, in Article 36, fines can be imposed on operators if: (1) they breach one or more of the prohibitions set out in Articles 10 and 11 of the same decree which concern the protection of the quality of groundwater (e.g., discharge of pollutants into groundwater, injection of pollutants into ground water), or (2) they do not implement the official decision in force on the execution of the technical intervention (i.e., intervention to reduce environmental damages) (3) the operators fail to fulfil their reporting obligations or their obligations of providing data to authorities. The Annexes of the Government Decree include the formula on the basis of which the fines are calculated.

In line with Article 37 of the same Decree, the authorities may also impose fines if the operator fails to comply with the conditions of the activity. In such cases, the amount of fine should be between 50,000 and 300,000 HUF (175 to 1,052 EUR).

Some activities that concern the use of water are subject to environmental permits/integrated environmental permits. In line with the IPPC Government Decree (Government Decree 314/2005 (XII.25.) on Environmental Impact Studies and Integrated Environment Use Permits), in particular of its Article 26, the imposed administrative sanctions can lead to a fine (up to 1,826 EUR or 365 EUR/day) and/or to the limitation, suspension or prohibition of the continuation of the illegal conduct. The administrative authorities also oblige the operators to comply with the conditions set in the permit, prepare a programme of measure or to carry out an environmental review. Moreover, the competent authorities may withdraw the environmental or integrated environmental permit of the operator.
It is noteworthy that prior to imposing the above listed administrative sanctions, the administrative authorities may issue warnings. Warnings may include information on the potential legal consequences of the illegal behaviours/activities of the operators.

**Quasi-criminal sanctions:**

In Hungary, illegal activities or omissions can constitute quasi-criminal offences. The sanctions imposed for quasi-criminal offences are similar to those for criminal offences; therefore the sanctions could for example include imprisonment or fines. In the context of water protection the operators (only natural person operators) can be held liable for the following offences:

- **Water pollution** (Article 245 of Act II of 2012 on Quasi-Criminal Offences): those who discharge pollutants to waters in a way that makes it impossible to use waters or endangers the use of water; or who dispose or discharge (into surface and ground water) waste water or pollutant in a manner different to the one set out in the permit or in applicable legislation or operates an installation in a way that can lead to the pollution or infection of waters; or carries out activities or uses an immovable property in a way that breaches the rules applicable to water protection zones.

- **The violation of rules applicable to floods and drainage** (Article 246 of Act II of 2012 on Quasi-criminal offences): who breaches the rules applicable to protection against floods and drainage; damages equipment or buildings that provide protection against floods or drainage; discharge a material or object into water in such a way that it blocks or change the flow of the water; or by the cultivation of its property located on the bank of the water or by treating/maintain its property endangers the natural flow of waters, or hinders the continuation of maintenance works; or who use flood defence mechanisms in a way that is contrary to applicable legislation, uses his vehicle without a permit or breach the rules applicable to sensitive areas.

**Criminal sanctions:**

For the most serious breaches of environmental obligations, criminal charges may be brought.

For the offence of ‘damaging the environment’ (Article 280 of Act IV of 1978- Criminal Code), a person responsible for any pollution of the earth, the air, the water, the biota (flora and fauna) and their constituents, resulting in (i) their endangerment (ii) damage to such an extent that its natural or previous state can only be restored by intervention, or (iii) damage to such an extent that its natural or previous state cannot be restored at all, is guilty of a felony and can be punishable of imprisonment of up to 8 years. The offence provision also penalises the negligent form of the crime.

In Hungary, legal persons can also be held criminally liable. In line with Act CIV of 2001, the following criminal measures can be imposed for crimes committed by legal persons: (1) the dissolution of the legal person, (2) constraining the activity of the legal person and (3) fines.

**7.6.2 Sanctions normally brought for water violations**

No information found.
7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
The same inspectorate is responsible for permitting the use of different environmental media (surface and ground waters, air, waste, soil, etc.). The inspectorates are established on river catchment level, and they work close together with the water directorates and with national parks. They have their own laboratory networks for monitoring and controlling the environmental users.

7.7.2 Weaknesses of the system of inspections and enforcement
The general contemplation of the inspectorates is improving on the basis of the integrated approach of the RBM planning.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is thought that the RBMPs have strengthened enforcement. Since its adoption, the RBMP has been used as a baseline by the law enforcement authorities, while taking their decisions and therefore the RBMP has contributed to the improvement of the quality of the work of the enforcement authorities. This progress is slow, as the enforcement authorities are lacking human resources.
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Act C of 1990 on local authorities;

Act LIII of 1995 on general rules of environment protection;

Act LVII of 1995 on water management;

Act CVII of 2004 on the Association of Local Governments for Towns as Subregions,

ACT CXL OF 2004 ON RULES APPLICABLE TO ADMINISTRATIVE PROCEDURES,

Act LXXXVI of 2007 on electric energy;

Act CXXX of 2010 on legislation; Basic Law/Constitution of Hungary;

ACT CXCV OF 2011 ON PUBLIC FINANCE,

ACT CCIX OF 2011 ON THE PUBLIC WATER DISTRIBUTION SERVICES

Article 77 of Act LIII of 1995 on Environment Protection.


THE DANUBE RIVER BASIN MANAGEMENT PLAN

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GOVERNMENT DECREE 5/2009 (IV.14.) ON WATER MANAGEMENT COUNCILS,

Government Decree 27/2006 (II.7.) on the protection of waters from nitrate pollution resulting from agricultural production;

GOVERNMENT DECREE 50/2001 ON THE RULES APPLICABLE TO THE USE OF WASTE WATER AND SEWAGE SLUDGE IN AGRICULTURE,

Government Decree 72/1996 (V.22.) on the implementation of authority powers in water management;

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GOVERNMENT DECREE 178/2010(V.13.) ON THE DESIGNATION OF TERRITORIES AT RISK OF WATER SURPLUS AND ON THE DEVELOPMENT OF DANGER AND RISK MAPS, MOREOVER ON THE DEVELOPMENT OF IMPLEMENTATION PLANS,
GOVERNMENT DECREES:

- Government Decree 201/2001 (X.25.) on the requirements applicable to drinking water and on their control,
- Government Decree 212/2010 (VII.1.) on the scope of duties and competencies of ministers and the minister of state for prime minister’s office,
- Government Decree 219/2004 (VII.21.) on the protection of ground water;
- Government Decree 220/2004 (VII. 21.) on the regulations pertaining to the protection of surface water bodies;
- Government Decree 221/2004 (VII.21.) on the rules of river basin management;
- Government Decree 347/2006 (XII.23.) on the designation of administrative bodies responsible for the tasks related to environment and nature protection and water issues, including enforcement and management,
- Government Decree 382/2007 (XII.23.) on authority licensing procedures for construction of electricity facilities;
- IPPC enforcement study for DG Environment (Provisions on penalties related to legislation on industrial installations, 2011).
- Ministerial Decree 18/1996 (VI.13.) on the annexes and application forms necessary for water permits,
- Ministerial Decree 30/2004 (XII.30.) on certain rules applicable to the monitoring of groundwater,
- Ministerial Decree 31/2004 (XII.30.) on certain rules applicable to the monitoring of surface water bodies and on the evaluation of their state,
- Ministerial Decree 11/2010 (II.4.) on the preparation of forest plans and on the rules applicable to district forest planning,
- Ministerial Decree 146/2011 (XII.23.) on the provision of hydrographical issues
- Ministerial Decree 221/2004 (VII.21.) on river basin management,
- Ministerial Order 7/2012 (IV.21.) on the rules applicable to the institutional set-up and operation of the ministry of rural development,
- Ministerial Decree 14/2010 (V.11.) on territories concerned by the nature protection areas of European significance,
- Ministerial Decree 43/2007 (VI.1.) on the publishing of the list of nitrate sensitive areas in accordance with MEPAR blocks.

Parliament decision 97/2005 (XII.25.) on the national concept of territorial development;
Parliament decision 96/2009 (XII.9.) on the National Environment Programme; Act XXI of 1996 on land development and land management;

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Member State Governance Fact Sheet: IRELAND

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1 Administrative Arrangements: Water Authorities
Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Environmental Protection Agency (EPA); Local authorities</td>
<td>National Coordination Group, RBD advisory bodies, Marine Institute, Regional Fisheries Boards, Office of Public Works, National Parks and Wildlife Service, DELG, Minister for the Environment, Heritage and Local Government</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Local authorities, EPA, Department of Environment, Community and Local Government (DECLG)</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>EPA, Marine Institute</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Local authorities, EPA, An Bord Planeala</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Office of Environmental Enforcement (OEE), local authorities</td>
<td>National Parks and Wildlife, the Fisheries Boards, the National Bureau of Criminal Investigation, the National Police Service, the Northern Ireland Environment and</td>
</tr>
</tbody>
</table>
The main competent authority responsible for the implementation of the WFD is the Environmental Protection Agency.

1.1 Division of responsibilities
For each RBD the local authorities covered designate a lead authority responsible for coordination. Other bodies support implementation and include the Marine Institute, Regional Fisheries Boards, Office of Public Works, National Parks and Wildlife Service, DELG. There is a National Coordination Group (NCG) and sub technical advisory groups, coordinated nationally by the EPA. For each RBD there is an advisory body; the RBDAC established by the LA. Implementation is the role of local authorities.

As described above - RBDACs provide the framework through which these bodies interact and liaise with the lead authority organising meetings of the RBDAC. The function of co-ordination at national and international level is exercisable by the Environmental Protection Agency and the Minister for the Environment, Heritage and Local Government. Other relevant public authorities in relation to river basins districts in Ireland include bodies such as the regional authorities, regional fisheries boards, the Central Fisheries Board, the Commissioners of Public Works, the Electricity Supply Board, Geological Survey of Ireland, the Health and Safety Authority, the Heritage Council, the Local Government Computer Services Board, the Marine Institute, the Radiological Protection Institute of Ireland, Teagasc, Failte Ireland, Waterways Ireland, the Minister for Enterprise, Trade and Employment, the Minister for Communications, Marine and Natural Resources and the Minister for Agriculture and Food, Minister for Arts, Heritage & the Gaeltacht.

Co-ordination among the different authorities for the management of different water categories is formalised.

Coordination is carried out at the technical/senior management level.

1.2 Authorities involved in preparing and approving the RBMPs
Local Authorities prepare the RBMP with approval from the EPA and DECLG (Department of Environment, Community and Local Government).

Coordination mechanisms to deal with multiple authorities:
For each RBD a lead local authority is tasked with coordination through the RBDAC.

### 1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs i.e. the lead local authority.

Coordination mechanisms to deal with multiple authorities:

As previously, the public authorities liaise via the RBDAC organised by the lead local authority for each RBMP.

### 2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

#### 2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.


Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service. EPA is responsible for all of the surveillance and operational monitoring and shares the responsibility of investigative monitoring with Local Authorities.

Coordination is the responsibility of the EPA through the monitoring programme for each category.

Different authorities are responsible for monitoring the different water categories, as outlined in the table below (Table 2).

#### Table 2: Summary of authorities responsible for monitoring in different water categories

<table>
<thead>
<tr>
<th>Water category</th>
<th>Responsible authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>EPA</td>
</tr>
<tr>
<td>Lakes</td>
<td>EPA</td>
</tr>
<tr>
<td>Transitional</td>
<td>Marine Institute</td>
</tr>
<tr>
<td>Coastal</td>
<td>Marine Institute</td>
</tr>
<tr>
<td>AWBs</td>
<td>EPA</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>EPA</td>
</tr>
</tbody>
</table>
3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Again the lead local authority is the implementing body though the EPA is the national coordination and monitoring body. EPA are essentially though the regulator of UWWT given the local authorities are often the operators.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>LAs/EPA</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>LAs/EPA</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>EPA/LAs</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Office of Public Works - certainly involved in each RBMP through the RBDAC and liaison for planning consents.</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>Department for Agriculture Food and Marine - again largely devolved to LAs but present in the RBMP process.</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>ECLG - Environment Community and Local Govt thereby devolved to Las.</td>
</tr>
<tr>
<td>Climate</td>
<td>as above</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. This is obtained locally through the RBDACs and nationally through the NCG run by the EPA.

3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 4).
**Table 4: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Locally the LAs lead but nationally AFM</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>Locally the LAs lead but nationally EPA</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td></td>
<td>Locally the LAs lead but nationally EPA</td>
</tr>
<tr>
<td>Energy</td>
<td>Locally the LAs lead but nationally Department of Communications, Energy and Natural Resources (CENR)</td>
</tr>
<tr>
<td>Transport</td>
<td>Locally the LAs lead but nationally Department of Transport, Tourism and Sport (TTS)</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>EPA</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>Locally the LAs lead but nationally EPA</td>
</tr>
<tr>
<td>Mining</td>
<td>Locally the LAs lead but nationally CENR</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. This is obtained through the National Coordination Group (NCG) run by the EPA.

## 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

### 4.1 Formal mechanisms of consultation

**Programme of Measures**

First, in preparing a programme of measures, the relevant local authorities were required under Regulation 12(3) to publish the draft programme and make it available for comment (from any person) for a period not less than six months, and to have regard to any comments received. Following consultation with the relevant public authorities and such other persons as the relevant local authorities consider appropriate, the relevant local authorities were then to establish the programme of measures, publish the programme of measures and send a copy of the programme to the relevant public authorities accompanied by a notice indicating that comments in relation to the programme could be sent to the Minister within one month of the date of publication of the programme. Finally, the Environmental Protection Agency (EPA) has the opportunity to report to the Minister on the programme of measures and any amendments it considered ought to be made, and the Minister could, after consultation with any Minister of the Government, competent authority in Northern Ireland or other person as he considered appropriate and following consideration of a report by the EPA, amend the
programme of measures by notice issued to the co-ordinating authority by 11 December 2009.

**River basin management plan**

Regulation 14 of SI 722/2003 (as amended) makes provision specifically for public information and consultation on the plan, and covers the draft copies of the RBMP. Under Regulation 14(1)(c) (as amended), the relevant local authorities were required to prepare and publish not later than 22 December 2008 draft copies of the RBMP. On publication of the draft RBMPs, the relevant local authorities were to, by notice published in a daily newspaper circulating in the RBD, invite comments in writing by any person and allow a period of at least six months for the provision of such comments. These requirements also apply to the updating of a RBMP. A copy of the draft RBMP is also be sent by the relevant local authorities to all the relevant public authorities.

Following consultation with the relevant public authorities and such other persons as the relevant local authorities consider appropriate, the relevant local authorities were then to establish the RBMP, publish the RBMP and send a copy of the RBMP to the relevant public authorities accompanied by a notice indicating that comments in relation to the plan could be sent to the Minister within one month of the date of publication. Finally, the Environmental Protection Agency (EPA) was required to report to the Minister on the RBMP and any amendments it considered ought to have been made, and the Minister could, after consultation with any Minister of the Government, competent authority in Northern Ireland or other person as he considered appropriate and following consideration of a report by the EPA, amend the RBMP by notice issued to the co-ordinating authority by 11 December 2009.

On 22 December 2008, draft RBMPs for each of the RBDs in Ireland were published for public consultation. The draft plans provided an assessment of the current status of water bodies, the environmental objectives to be achieved, and the measures required in order to achieve these objectives. Draft plan public consultation events were held between December 2008 and June 2009 including a number of public meetings. Input from the consultation was taken into account in the finalisation of the RBMPs. RBMPs were finalised for each of the 7 RBDs in July 2010.

The RBMP’s were also considered during their preparation by the RBD Advisory Council, which consists of representatives from local authorities (County and Town Councillors) and community and stakeholder groups (agriculture, angling, industry and non-governmental organisations). Voluntary groups were also involved in the River Basin Planning activities primarily through the activities of SWAN (Sustainable Water Network) [www.swanireland.ie](http://www.swanireland.ie). SWAN is an umbrella network of 25 of Ireland’s leading national and local environmental organisations specifically constituted to address public participation requirements of the Water Framework Directive.

The RBMP’s were also considered by a River Basin Management Group which facilitates information exchange, consultation, cooperation and liaison within and between Ireland’s public authorities.
5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
It is not clear whether any new authorities have been created as a result of the WFD.

Irish legislation is currently being changed to create a national water services authority likely to be called Irish Water. Please refer to the response sent to the Commission on RBMP’s. (Covering letter to Mr. Peter Gammeltoft of 9th May 2012). See also section on influence of the WFD and the RBMPs on enforcement.

The proposed Irish Water body will take on responsibilities that currently over burden local authorities.

Benefits linked to these changes include better governance and also the introduction of water pricing rather than a national fiscal transfer system for household supply.
5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies, etc.
6  Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

Regulation 3(1) of SI No 722/2003 places a general duty on every public authority to take such actions as may be appropriate in the context of its functions to secure compliance with the Directive and with the provisions of any river basin management plan made, and any programme of measures established, in accordance with the Regulations.

Eight River Basin Districts (RBDs) have been identified for Ireland and Northern Ireland. Four of these lie wholly within Ireland (Eastern, South Eastern, South Western and Western) and one lies wholly within Northern Ireland (North Eastern). Three of the RBD’s however, are shared with Northern Ireland (Shannon, Neagh Bann, and North Western), for which a separate RBMP is prepared for the portion lying within Northern Ireland.

Programme of Measures

Under Regulation 12(3)(a) of the European Communities (Water Policy) Regulations 2003 (SI 722/2003), the relevant local authorities were required to publish a draft programme of measures not later than 22 December 2008. Thereafter, the relevant local authorities were to, not later than 16 October 2009, establish a programme of measures in order to achieve environmental objectives, and publish the programme of measures so established. The programme of measures was to come into effect by 22 December 2009, and the measures specified in the programme made operational not later than three years after the programme came into effect.

River basin management plan

Under Regulation 14 of SI 722/2003 (as amended), the relevant local authorities were to prepare and publish, not later than 22 June 2006 a timetable and work programme for the production of a RBMP. They were also, not later than 22 June 2007 to provide an overview of the significant water management issues identified in the RBD and, not later than 22 December 2008 produce draft copies of the RBMP.

Under Regulation 13 (as amended), the relevant local authorities in relation to each RBD were to, not later than 16 October 2009, make a RBMP in accordance with Article 13 of the Directive, and publish the plan. The RBMP, with such amendments (if any) as have been made by the Minister, was to come into effect by 22 December 2009. RBMPs were finalised for each of the seven RBDs that lie wholly or partly within Ireland, in July 2010.

The relevant local authorities have responsibility therefore for the preparation and publication of both the programme of measures and the RBMPs. Regulation 2(3) of SI 722/2003 defines “the relevant local authorities”, in relation to a RBD, as the local authorities whose functional areas lie wholly or partly within that RBD. Regulation 6(4) also sets out which local authority shall act as the co-ordinator for each river basin district.
For those RBDs that lie wholly or partly within Ireland, responsibility lies with the following local authorities:

- **Eastern River Basin District** – The RBMP is issued by twelve local authority areas: Dublin City, Meath, Kildare, Wicklow, Cavan, Dun Laoghaire-Rathdown, Fingal, Offaly, South Dublin, Westmeath and small portions of Wexford and Louth. Dublin City Council is the coordinating local authority.

- **Neagh Bann International River Basin District** – The RBMP is issued by the county councils of Monaghan, Cavan, Louth and Meath for the portion of the RBD in Ireland. Monaghan County Council is the coordinating local authority.

- **North Western International River Basin District** – The RBMP is issued by the county councils of Donegal, Cavan, Leitrim, Longford, Monaghan and Sligo for the portion of the RBD in Ireland. Donegal County Council is the coordinating local authority.

- **Shannon International River Basin District** - The district’s local authorities (Limerick (county and city), Cavan, Clare, Cork, Galway, Kerry, Laois, Leitrim, Longford, Meath, Mayo, Offaly, Roscommon, Sligo, Tipperary North, Tipperary South and Westmeath) acted jointly to make the RBMP, while Limerick County Council is the coordinating local authority.

- **South East River Basin District** – The district’s local authorities (Carlow, Wexford, Kilkenny, Waterford County, South Tipperary, Laois, North Tipperary, Kildare, Offaly, Wicklow, Waterford City, Limerick and Cork) acted jointly to make the RBMP, while Carlow County Council is the coordinating local authority.

- **South West River Basin District** – The district’s local authorities (Cork and Kerry, Limerick, South Tipperary and Waterford and Cork City) acted jointly to make the RBMP, while Cork County Council is the coordinating local authority.

- **Western River Basin District** - The district’s local authorities Clare, Galway City, Galway County, Leitrim, Mayo, Roscommon and Sligo) acted jointly to make the RBMP, while Galway County Council is the coordinating local authority.

In addition to the relevant local authorities, Regulation 16 of SI 722/2003 requires the local authorities to establish an advisory council for each RBD, to consider matters relating to the preparation of RBMPs and other matters relevant to the protection and use of the aquatic environment and water resources in the RBD and to advise and make recommendations on these matters to the relevant public authorities.

More detailed information is also set out in a series of water management unit (WMU) action plans. WMUs are developed at a smaller geographical scale than RBD’s, and allow for more focussed planning and implementation. For example, there are thirty four WMU’s in the South Eastern RBD plus action plans focusing on ground waters and estuarine and coastal waters. These action plans will be developed further to become implementation programmes and will be revised to reflect any updates as implementation of the plan proceeds.

### 6.1.1 Legal effect

RBMP’s are high level strategic planning documents. They are not in themselves legal instruments, though have a statutory basis. Regulation 3(1) of SI No 722/2003 places a
general duty on every public authority to take such actions as may be appropriate in the context of its functions to secure compliance with the Directive and with the provisions of any river basin management plan made, and any programme of measures established, in accordance with the Regulations.

In addition, the European Communities Environmental Objectives (Surface Waters) Regulations 2009 (S.I. No. 272 of 2009) and new European Communities Environmental Objectives (Groundwater) Regulations 2010 (S.I. No. 9 of 2010) were made to give effect to the measures needed to achieve surface water and groundwater environmental objectives established in RBMP’s. These Regulations place a legal obligation on public authorities to aim to achieve those objectives in the context of their statutory functions. For example, both sets of Regulations require the relevant authorities to review all pollutant discharge authorisations to take account of the objectives established in river basin plans.

6.1.2 Legal status in relation to individual decisions

Regulation 11 of the European Communities Environmental Objectives (Surface Waters) Regulations 2009 (S.I. No. 272 of 2009) and Regulation 12 of the European Communities Environmental Objectives (Groundwater) Regulations 2010 (S.I. No. 9 of 2010) require the relevant authorities to review all existing authorisations and to take account of the objectives established in river basin management plans. In each case, public authorities are required as soon as may be practicable, but not later than 22 December 2012 to examine the terms of every authorisation and determine whether, having regard to the requirements of the Regulations, the authorisation requires to be reviewed. If the authorisation is required to be reviewed, this was to be completed by 22 December 2012. If the authorisation does not require to be reviewed and accordingly, no further action is required, the public authority is required to declare in writing that this is the case. Thereafter, a public authority is required from time to time to carry out such further examination, and where necessary review authorisations as may be necessary to ensure compliance with the Regulations.

Regulation 10 of SI 272/2009 also provides that when authorising a discharge into a body of surface water, a public authority may decide to not apply emission limits based on the environmental quality standards set out in those Regulations, provided that the reason or reasons for not applying the emission limits are set out in the RBMP, amongst other requirements. Regulation 29 provides that the environmental objective of good ecological potential and good chemical status may be applied in the case of a body of surface water identified as artificial or heavily modified, when such designation and the reasons for it are specifically mentioned in the RBMP and reviewed every 6 years. The Regulations also make provision for the extension of deadlines for the phased achievement of the environmental objectives, the establishment of less stringent environmental objectives, the temporary deterioration in surface water status, the conditions for new physical modifications and new sustainable developments, and the procedures and methodologies used to delineate mixing zones, provided that in each case these are specifically mentioned in the RBMP. Similar provisions, referring to the requirements of the RBMP and review every 6 years, are also included in SI 9/2010, in relation to groundwater.

With regard to surface water, the EPA has examined IPPC and waste licences in accordance with the European Communities Environmental Objectives (Surface Waters) Regulations 2009 and determined that more than 80 licences require review. Official
notification of the review was to be sent to the relevant licensees between June 2011 and June 2012 and therefore this process is ongoing at present. However, in accordance with the Regulations, the reviews must be completed by 22 December 2012.

With regard to groundwater, the EPA is in the process of examining all IPPC and waste licences to determine if the licences are in compliance with the European Communities Environmental Objectives (Groundwater) Regulations 2010. Again, where there are discharges to groundwater and a licence complies with the regulations, the EPA will issue a declaration to the licensee concerned that this is the case. Where there are discharges to groundwater and the licence does not comply with the regulations, the EPA must amend or review the licence by 22 December 2012.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Waters can be physically modified for a number of reasons, including for the purposes of hydropower. Currently, large scale hydropower schemes are regulated under the Electricity Supply (Amendment) Act 1945, Section 4(1) of which requires the Electricity Supply Board, whenever they so think proper, to prepare and submit a scheme for the generation of electricity by means of hydraulic power derived from the waters of any specified river impounded and made available for that purpose by means of a dam and other engineering works to be constructed by the Board under the Act. For the purpose of carrying out an approved scheme, the Board may impound, hold up, divert, take, and use the waters of the river to which such an approved scheme relates and the waters of any river or stream tributary to, and of any lake, pond, or canal on or connected with, the said river to which such approved scheme relates, amongst other actions. A number of schemes have been approved under the Act, for example under the River Erne Hydro-Electric Scheme Approval Order 1945 (S.I. No. 86/1945), and the River Lee Hydro-Electric Scheme Approval Order 1949 (S.I. No. 321/1949). No specific provision is made for review of such schemes in light of the environmental objectives. Section 5(1) of the Electricity Supply (Amendment) Act 1945 does however provide for amendment of a scheme whenever "it appears to the Board to be necessary that such scheme should be amended in any respect".

In addition, each RBMP states that new regulations may be introduced to create a registration and authorisation system for abstractions, impoundments and physical modifications. Future construction or civil engineering works which come into contact with, and could potentially influence the water table, could therefore require authorisation and general binding rules.

**Abstraction for agriculture**

At present, the main legislation governing the abstraction of water from rivers and lakes is the Water Supplies Act 1942, which governs the abstraction, by local authorities of water from various water sources. Specifically, section 3(1) of the Act sets out the requirements that apply to local authorities who wish to abstract from rivers and lakes. However, as the legislation was introduced 70 years ago, the Department of the Environment, Heritage and Local Government has indicated that it is proposing to update
this legislation soon, possibly during 2012. They have also stated that the updating will be done by primary legislation i.e., a new Act instead of a Statutory Instrument.

The Planning and Development Acts 2000 to 2006 and associated Regulations set out further provisions regarding water abstraction including establishing a role for An Bord Pleanala, provisions regarding planning permissions for abstraction, associated consent procedures and public notice/consultation requirements, and relevant environmental impact assessments and associated thresholds.

As noted above, each RBMP states that new regulations may be introduced to create a registration and authorisation system for abstractions, impoundments and physical modifications. It is understood that the Department of the Environment, Heritage and Local Government will propose new legislation creating a single registration and authorisation system. Authorisations would apply to surface water and groundwater and may include registration of all abstractions (including abstractions for agriculture) above a specified abstraction threshold, general binding rule, notification or licensing depending on the river size and existing or proposed abstraction volume for rivers, and notification or licensing depending on the existing or proposed volume of abstraction in lakes and ground waters.

**IPPC and other industrial installations**

As stated above, the EPA has examined IPPC and waste licences in accordance with the European Communities Environmental Objectives (Surface Waters) Regulations 2009, and is in the process of examining such licenses under the European Communities Environmental Objectives (Groundwater) Regulations 2010. In each case, the reviews must be completed by 22 December 2012. The review requirements under the Groundwater Regulations apply to every authorisation granted by a public authority, while the review requirements under the Surface Waters Regulations apply to every authorisation or revised authorisation to which Article 9 applies and for the time being in force. Article 9 of those Regulations applies to authorisations granted under the Act of 1992, which is the Environmental Protection Agency Act 1992 as amended by the Protection of the Environment Act 2003 and the Water Services Act 2007. The Environmental Protection Agency Acts (No 7 of 1992 and No 27 of 2003) and the Environmental Protection Agency (Licensing) Regulations (SI 85 of 1994) as amended, set out the requirements for operations of certain industrial and agricultural installations to obtain IPPC licences.

**6.2 Relationship with other sectoral policy plans**

As stated above, Regulation 3(1) of SI No 722/2003 places a general duty on every public authority to take such actions as may be appropriate in the context of its functions to secure compliance with the Directive and with the provisions of any river basin management plan made, and any programme of measures established, in accordance with the Regulations.

The Planning and Development (Amendment) Act 2010, which amends the Planning Acts of 2000 to 2009, aims to strengthen the legal basis of planning guidelines by requiring development plans to set out a core strategy that demonstrates that the development objectives in the development plan are consistent, as far as practicable, with national and regional development objectives set out in the National Spatial Strategy and Regional Planning Guidelines, Development Plans and Local Area Plans. A planning
authority is required to ensure, when making a development plan, that the plan is consistent with any regional planning guidelines in force for its area. Regional planning guidelines require that development plans incorporate water objectives established in river basin management plans. In addition, the 2010 Amendment Act inserts a new subsection (cb) into Section 10(2) of the 2000 Act, which sets out the objectives to be included in a development plan. Section 10(2)(cb) therefore now requires that the development plan includes objectives for the promotion of compliance with environmental standards and objectives established for bodies of surface water, by the European Communities (Surface Waters) Regulations 2009, and for groundwater, by the European Communities (Groundwater) Regulations 2010, which standards and objectives are included in river basin management plans (within the meaning of Regulation 13 of the European Communities (Water Policy) Regulations 2003).

The Water Services Act 2007 introduces strategic planning in relation to water services provision, strengthening the administrative arrangements for planning the delivery of water services at national and local level. Water Services Strategic Plans prepared by water services authorities in accordance with Section 36 of this Act must take full account of the proper planning and sustainable development of their functional areas including, amongst other things, the provisions of river basin management plans prepared for the relevant area.

The Department of the Environment, Heritage & Local Government has also issued guidance to the relevant public authorities, entitled 'River Basin Management Planning, A Practical Guide for Public Authorities', June 2008. The Guidance provides clarification on the relationship between RBMP and other plans and programmes already in existence, including water pollution reduction plans and programmes, and outlines the steps that need to be taken by local authorities, the EPA and other public authorities to align the objectives of other plans and programmes with the stated objectives of RBMPs. While the guidance is not binding, the relevant public authorities should take full account of it.

The Guidance emphasises that the relationship between RBMPs and other relevant plans and programmes is a two way process, as other public bodies should be able to influence the river basin planning process, and river basin planning should also influence their plans and strategies. Mechanisms for ensuring that plans and programmes are integrated include: guidance issued by the Minister for the Environment, Heritage & Local Government in relation to implementation of RBMPs; representation on National and RBD level liaison groups; formal consultations on river basin planning documents issued by the local authorities and the EPA; and local authorities and EPA input into other public bodies’ plans and programmes. Integration will be a gradual process, with each of the separate plans and programmes taking account of the WFD as it is reviewed.

National Spatial Strategy (NSS) 2002-2020 - This provides the national strategic planning framework for achieving a better balance of social, economic and physical development, between the regions in Ireland. The strategy makes clear that development needs to be effectively managed and appropriately located in order to bring about both more balanced regional development, and development that is sustainable in economic, social and environmental dimensions.

National Development Plan (NDP) 2007-2013 - This has been developed around the framework of the NSS objectives especially in terms of the capital investment programs currently being implemented. River basin planning is a new and key policy input into the
ongoing implementation of the NSS at regional and local levels. Effective integration between river basin planning and the implementation and ongoing refinement of spatial planning policy at national, regional and local levels is crucial in ensuring that subsequent development is compatible with water policy. The river basin planning process should inform the spatial planning processes of the potential risks posed by various potential forms and patterns of development to the achievement of the water objectives set out by RBMPs. In turn, these potential risks to water quality objectives must be considered by planning authorities, through the strategic environmental assessment (SEA) process, when preparing their statutory development plans. It will also be necessary for planning authorities to consider potential risks to water objectives during the detailed stages of development management when development plans are implemented.

Regional Planning Guidelines (RPG) - Regional Authorities prepared Regional Planning Guidelines (RPGs) in 2004 for their functional areas and for the purpose of implementing the NSS at regional level. The RPGs, which incorporate a socio-economic development strategy, constitute a 20-year strategic planning framework for the development of each region and for inter-regional cooperation on strategic planning and infrastructure. Formal review of the RPG’s will begin in 2009 and this review process will need to take into account the need for water supply and waste water facilities and environmental protection.

Development plans - Development plans are also a key implementation mechanism for the NSS and RPG’s and must be rooted in these national and regional spatial policy frameworks. In the preparation of development plans, planning authorities should therefore ensure that relevant objectives of any water quality management plans are included in the plan. At the city and county level, local authority development plans will need to both influence and be influenced by RBMPs. Development plans will be an important source of information within RMBP’s on future pressures that may pose risks to water objectives, if no action is taken.

Local Area Plans (LAP) – LAPs must be prepared for towns and any area with a population greater than 2,000. A LAP may be prepared for any area the planning authority considers suitable. A LAP must be consistent with the objectives of the development plan. The County Development Plan establishes the strategic context in which the various LAPs are prepared.

River basin management plans will be revised in 2015 and 2021. All regional planning guidelines are currently under review and will be reviewed every six years thereafter. All development plans and local plans are required to take account of these regional guidelines and must be reviewed every six years. Guidance on integrating development planning and river basin planning will be issued by the Department of the Environment, Heritage and Local Government in due course.

Finally, it should be noted that the Department of the Environment, Heritage and Local Government issued Guidelines for Planning Authorities on ‘The Planning System and Flood Risk Management’ in November 2009. The guidelines aim to ensure that the risks of flooding are integrated into the planning process, first through the spatial planning process at regional, city and county and local levels, and also in the assessment of development proposals.
7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

Essentially for all non IPPC permits applications are made through the council, IPPC permits are made through the EPA. Local Authority WWTD permits are handled by the EPA as well under the Water Pollution Act 1977.

Summary information on existing arrangements for permitting and licensing can be found in SWMI reports.

Permits (licences) are not coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

The responsible authorities for different water users are indicated in the table below (Table 5).

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>LAs</td>
</tr>
<tr>
<td>Impoundments</td>
<td>LAs</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>LAs then EPA</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>LAs then EPA</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>LAs then EPA, planning permission may lead to appeal via An Bord Planeala</td>
</tr>
</tbody>
</table>

Because different authorities are responsible for permitting for the different water users, there is a requirement for coordination/communication. Essentially local authorities are responsible below threshold levels (IPPC) and where planning permission is required there are statutory guidelines provided by the DECLG.

7.2 Permit applications

The process for application for a permit is described below. Figure 0.1 shows a sample, generic process for permit applications.
As above, local authorities may be the RA or the Applicant (in UWWT for example), depending on whether planning permission is needed; IPPC permits are managed through the EPA, to which the LA may apply, and the above process is a fair description of how that operates. Again in cases of appeal referral may be made to An Bord Pleanala.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, it is very unclear, at local
authority level, whether there could be situations in which the applicant for the permit is also involved in water resource management.

Nationally, for impoundments, the EPA is responsible, notably through IPPC permits. There is legislation to provide for the control of abstractions and impoundments of water, in accordance with Article 11(3)(e) of the WFD, this will be developed in 2012 with a view to enactment in 2013.

For point source discharges, the EPA is responsible, nationally, notably through IPPC permits. In order to ensure consistency in the assessment and authorisation of point discharges to waters (groundwater and surface waters) and to ensure compliance with the Water Framework Directive the Environmental Services Training Group has developed technical guidance for local authority personnel under the direction of the Department of Environment, Community and Local Government, EPA and local authorities. This guidance is delivered through formal training courses.

Nationally the EPA is responsible, notably through IPPC permits, for diffuse pollution measures. Guidelines for the development of Groundwater Protection Schemes (GPS) have been in place since 1999. The guidelines are aimed at the planning and licensing authorities for the purpose of carrying out their functions in a manner which protects groundwater, including drinking water sources. The GPS consists of a framework to assist in decision-making on the location, nature and control of developments and activities in order to protect groundwater. Response matrices are available for:

- Landfill
- IPC Landspreading
- On-site wastewater treatment systems (e.g. septic tanks) (Note: in addition a binding Code of Practice entitled WASTEWATER TREATMENT AND DISPOSAL SYSTEMS SERVING SINGLE HOUSES was published by the EPA in 2010.
- Out wintering pads
- Earth-lined slurry stores

Use of a scheme assists authorities to ensure that within the planning and licensing processes due regard is taken of the need to maintain the beneficial use of groundwater.

For hydromorphological alterations, nationally, the EPA is responsible, notably through IPPC permits and OPW consultation. The legislation to provide for the control of abstractions and impoundments of water (referred to above) will include a section to give specific effect to Article 11(3)(i) of the WFD, regarding hydromorphological changes to surface water bodies.

7.3 Enforcement of permits: authorities
The national body for enforcement of water related permits for larger facilities, as well as all local authority waste water discharges, is the Office of Environmental Enforcement (OEE) within the Environmental Protection Agency (EPA). It has responsibility for a wide range of licensing, enforcement, monitoring and assessment activities associated with environmental protection. These include licensing of large scale operations covered by IPPC licences, Waste licences and Urban Waste Water Discharge licences. Ireland’s 34 local authorities, such as city and county councils, are responsible under the Water Pollution Act for the issue and enforcement of water permits for other discharges that are not covered by the EPA. This includes discharges to waters from industry that is not
covered by IPPC, commercial premises, sewage discharges from housing estates and other discharges such as those from mines and cooling waters.

The EPA also has a supervisory role over the Local Authorities and monitors their performance of statutory obligations. Other bodies that may be involved in the enforcement of specific sectors, investigations or prosecution cases can include: National Parks and Wildlife, the Fisheries Boards, the National Bureau of Criminal Investigation, An Garda Síochána (the National Police Service), the Northern Ireland Environment and Heritage Service, the Police Service of Northern Ireland, the Health Service Executive, the Revenue Commissioners, and the Director of Public Prosecutions.

While the OEE is national, the local authorities are each responsible for their local territory. Each River Basin District has a lead Local Authority. River Basin District plans and Water body action plans cover the measures for a range of authorities. Further details on each RBD district is available on the WFD website that is at this link - Water Matters - River Basin Management Plans documentation - Home Page.

There are separate authorities responsible for enforcement of different economic sectors. The EPA enforces large industry including IPPC licences, Waste licences and Urban Waste Water Discharge licences. Mining is covered under IPPC and the EPA also maintains an Extractive Waste Register. Intensive Agriculture requiring IPPC licensing is enforced by the EPA. The Energy sector requiring IPPC licences is enforced by the EPA.

The Department of Agriculture cover inspections under the Nitrates Directive and under Cross Compliance such as requirements under the sewage sludge and groundwater directive in addition to the nitrates directive. The majority of farm inspections are carried out by the Department of Agriculture.

Local Authorities carry out inspections and take enforcement actions under the Water Pollution Act. Ireland’s 34 local authorities, such as city and county councils, play a key role in environmental enforcement, with a focus on small discharge licences to water, follow up farm inspections, and small domestic waste water discharges.

There are separate authorities responsible for the enforcement of different types of water-related permits. Overall, the OEE/EPA and local authorities are responsible for enforcement across the different types of permits. Small point source discharges are licensed and enforced by local authorities. LAs are responsible for enforcement of water permits (single media discharge licences). There is not currently a system for abstraction permitting.

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities
There is more than one enforcement authority in Ireland.

An Environmental Enforcement Network brings together the main bodies involved in enforcement: the EPA, all local authorities, Government Departments, the National Parks and Wildlife, An Garda Síochana, the National Bureau for Criminal Investigations, the Northern Ireland Environment and Heritage Service, the Police Service of Northern Ireland, the Fisheries Boards, the Health Service Executive, the Revenue Commissioners, and the Director of Public Prosecutions. The Network has carried out several activities for water-related enforcement, including the development of catchment-specific
enforcement plans. Through the EEN, the EPA has also supported local authorities in preparing local inspection plans; these help to implement the EU Recommendation for minimum criteria for environmental inspections.

The EPA also organises conferences to highlight national issues and priorities with one of the most important being its annual water conference that is held in June each year.

### 7.4.2 Between enforcement and water management authorities

It is unclear whether the enforcement authorities and water management authorities are separate entities. Coordination between authorities varies depending on the sector involved. For example public water services are currently provided for by 34 Water Services Authorities and they are enforced by the Environmental Protection Agency.

Governance arrangements are currently under review in Ireland, and a new national organisation call Irish Water is being established. See also section below on influence of the WFD and the RBMPs on enforcement.

### 7.5 Enforcement actions

#### 7.5.1 Number of inspectors

Within the EPA, there are a total of 27 FTE Licensing Inspectors.

Of the 27 FTE, 16 fulfil licensing roles on applications with a wastewater or water dimension to them. These application types include IPPC, Municipal Wastewater Discharge & waste-facilities with discharges to water. Most of these inspectors also fulfil other roles in the licensing of: waste facilities (no particular water focus); and IPPC (no particular water focus). And they carry out a range of other activities which are not directly concerned with the processing of licence applications. It is estimated that ten (10) FTE Licensing inspectors work exclusively on water sector licensing work. (Source: Interview with Licensing Programme Manager, ELP, EPA.)

In addition to work on the licensing aspects of permits that EPA has a dedicated unit responsible for the enforcement of permits (note in Ireland permits are generally called licences). This unit is called the Office of Environmental Enforcement. A total of 10 FTE work on the enforcement of urban waste water authorisations, 6 FTE work on drinking water enforcement and 2 FTE are currently working on domestic waste water system. In addition a team of Inspectors work on the enforcement of IPPC, waste and dumping at sea licences. Within Local Authorities, it is estimated that the FTE effort is as follows:

#### Table 6: FTE effort regarding water licensing

<table>
<thead>
<tr>
<th>Effort</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical</td>
<td>174.735</td>
<td>162.4</td>
</tr>
<tr>
<td>Support</td>
<td>43.3</td>
<td>44.3</td>
</tr>
<tr>
<td>Total</td>
<td>218.035</td>
<td>206.7</td>
</tr>
</tbody>
</table>

As noted above, in the EPA, 10 FTE work on the enforcement of urban waste water authorisations, 6 FTE work on drinking water enforcement and 2 FTE are currently working on domestic waste water system.
7.5.2 Number of inspections
In 2007, local authorities carried out a total of 42,290 routine inspections related to water; in 2008, they carried out 63,178 such inspections. In addition, local authorities carried out 12,144 non-routine inspections related to water in 2007; they carried out 10,202 in 2008.

Table 7: Local Authority water pollution licences in place 2009 & 2010 (source: RMCEI returns to EPA)

<table>
<thead>
<tr>
<th>Water pollution licences</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discharges to waters</td>
<td>1428</td>
<td>1486</td>
</tr>
<tr>
<td>Discharges to sewer</td>
<td>2183</td>
<td>2110</td>
</tr>
<tr>
<td>Total licences in force</td>
<td>3611</td>
<td>3596</td>
</tr>
</tbody>
</table>

Table 8: Local Authority water related inspections for 2009 & 2010 (source: RMCEI returns to EPA)

<table>
<thead>
<tr>
<th>Water/Wastewater related inspections</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discharge licences to waters and sewers</td>
<td>3998</td>
<td>5786</td>
</tr>
<tr>
<td>Inspections/Monitoring of urban wastewater treatment plants</td>
<td>8245</td>
<td>7698</td>
</tr>
<tr>
<td>Dangerous substances regulations</td>
<td>621</td>
<td>88</td>
</tr>
<tr>
<td>WFD National Monitoring Programme</td>
<td>11150</td>
<td>8204</td>
</tr>
<tr>
<td>Other surface groundwater protection inspections</td>
<td>5667</td>
<td>4875</td>
</tr>
<tr>
<td>Private drinking water schemes</td>
<td>4700</td>
<td>4174</td>
</tr>
<tr>
<td>Local authority drinking water plants</td>
<td>21172</td>
<td>16484</td>
</tr>
<tr>
<td>Farm inspections</td>
<td>4131</td>
<td>3835</td>
</tr>
<tr>
<td>Bathing water</td>
<td>2913</td>
<td>2996</td>
</tr>
<tr>
<td><strong>Subtotal (routine inspections)</strong></td>
<td><strong>62597</strong></td>
<td><strong>54140</strong></td>
</tr>
<tr>
<td>Non routine Water/Wastewater inspections /incident investigations</td>
<td>6052</td>
<td>5368</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>68649</strong></td>
<td><strong>59508</strong></td>
</tr>
</tbody>
</table>

Table 9: EPA Water monitoring of the industrial and waste sectors in the period 2009 & 2010

<table>
<thead>
<tr>
<th>Sector</th>
<th>Water</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2009</td>
</tr>
<tr>
<td>Cement</td>
<td>13</td>
</tr>
<tr>
<td>Chemical</td>
<td>184</td>
</tr>
<tr>
<td>Class 13</td>
<td>22</td>
</tr>
<tr>
<td>Energy Sector</td>
<td>33</td>
</tr>
<tr>
<td>Food &amp; Drink</td>
<td>208</td>
</tr>
<tr>
<td>Fossil Fuels</td>
<td>6</td>
</tr>
<tr>
<td>Intensive Agriculture</td>
<td>11</td>
</tr>
<tr>
<td>Metals</td>
<td>36</td>
</tr>
<tr>
<td>Mineral Fibre &amp; Glass</td>
<td>5</td>
</tr>
<tr>
<td>Minerals &amp; Other Materials</td>
<td>25</td>
</tr>
<tr>
<td>Surface Coatings</td>
<td>107</td>
</tr>
<tr>
<td>Timber Treatment</td>
<td>43</td>
</tr>
<tr>
<td>Wood, Paper, Textiles &amp; Leather</td>
<td>17</td>
</tr>
<tr>
<td>Civic Amenity</td>
<td>6</td>
</tr>
<tr>
<td>Compost</td>
<td>7</td>
</tr>
<tr>
<td>Contaminated Land</td>
<td>0</td>
</tr>
<tr>
<td>Dredging and Soil Recovery Facilities</td>
<td>0</td>
</tr>
<tr>
<td>Hazardous Waste Transfer Stations</td>
<td>32</td>
</tr>
<tr>
<td>Landfill</td>
<td>71</td>
</tr>
<tr>
<td>Non-hazardous Waste Transfer Stations</td>
<td>87</td>
</tr>
<tr>
<td>Incineration</td>
<td>0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>913</strong></td>
</tr>
</tbody>
</table>

Local authorities carried out 3729 inspections of farms in 2007, 5137 inspections in 2008, 4131 inspections in 2009 and 3835 inspections in 2010 (source: RMCEI annual returns from each Local Authority to the EPA). (These figures to not include Department of Agriculture inspections related to the Nitrates Directive and GAEC.)

The EPA is responsible for the enforcement of waste water authorisations issued to local authorities. The EPA report titled Focus on Urban Waste Water Discharges in Ireland outlines the work carried out in this area; Chapter 3 of the report contains relevant information. 111 EPA audits of 82 licensed waste water works were carried out in 2010. The report is available at this link.
Local authorities carried out 7223 inspections related to urban wastewater treatment in 2008, 8245 in 2009 and 7698 in 2010. (Source: RMCEI annual returns from each Local Authority to the EPA).

7.5.3 Number of infringement actions
Water enforcement & prosecution actions

In 2007, local authorities in Ireland issued 1120 warning letters and 559 notices for potential violations of water requirements; in 2008, they issued 2440 warning letters and 613 notices. Local authorities undertook 81 court prosecutions in 2007 and 79 in 2008.

In 2009 local authorities in Ireland issued 815 warning letters, 337 notices for potential violations of water requirements and 49 prosecution actions. In 2010 local authorities issued 538 warning letters, 276 notices for potential violations of water requirements and 151 prosecution actions. (source: annual RMCEI returns from Local Authorities to EPA).

Overall, The Irish EPA took 51 prosecutions to court from 2006 to 2008, across all environmental issues. Of these, 18 prosecutions were for exceedences in water emissions. From 2009-2010, the EPA 55 prosecutions to court across all issues, 14 of these prosecutions were for exceedences in water emissions. See tables and graphs below for further detail of EPA IPPC & Waste licence actions.


### Table 10: Non-compliance with IPPC licences 2009 - 2011

<table>
<thead>
<tr>
<th>Non-compliance Type</th>
<th>IPPC</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bunding &amp; Materials handling</td>
<td>401</td>
<td>11.9</td>
</tr>
<tr>
<td>{Documentation and Procedures</td>
<td>494</td>
<td>14.6</td>
</tr>
<tr>
<td>ELV Exceedance</td>
<td>1362</td>
<td>40.3</td>
</tr>
<tr>
<td>Failure to provide/install Infrastructure</td>
<td>128</td>
<td>3.8</td>
</tr>
<tr>
<td>Monitoring</td>
<td>245</td>
<td>7.2</td>
</tr>
<tr>
<td>Non Notification of Incidents</td>
<td>120</td>
<td>3.5</td>
</tr>
<tr>
<td>Outstanding Reports</td>
<td>196</td>
<td>5.8</td>
</tr>
<tr>
<td>Non-compliance Type</td>
<td>IPPC</td>
<td>%</td>
</tr>
<tr>
<td>---------------------</td>
<td>------</td>
<td>-----</td>
</tr>
<tr>
<td>Waste Management</td>
<td>162</td>
<td>4.8</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>275</td>
<td>8.1</td>
</tr>
<tr>
<td>Report Totals</td>
<td>3383</td>
<td>100.0</td>
</tr>
</tbody>
</table>

**Table 11: Non-compliances with waste licences 2009-2011**

<table>
<thead>
<tr>
<th>IPPC Prosecutions breakdown of issues 2009 - 2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emissions to air</td>
</tr>
<tr>
<td>Emissions to water</td>
</tr>
<tr>
<td>Materials Handling Failures(bundling/ capping)</td>
</tr>
<tr>
<td>Unauthorised Waste transfer/ tonnage exceeded</td>
</tr>
<tr>
<td>Monitoring reporting failures</td>
</tr>
<tr>
<td>Land spreading activities / breach of nmp</td>
</tr>
</tbody>
</table>

**Table 12: Waste Prosecutions breakdown of issues 2009-2011**

<table>
<thead>
<tr>
<th>Waste Prosecutions</th>
<th>2009-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emissions to air</td>
<td>9</td>
</tr>
<tr>
<td>Emissions to water</td>
<td>3</td>
</tr>
<tr>
<td>Materials Handling Failures(bundling/ capping)</td>
<td>7</td>
</tr>
<tr>
<td>Unauthorised Waste transfer/ tonnage exceeded</td>
<td>11</td>
</tr>
<tr>
<td>Monitoring reporting failures</td>
<td>2</td>
</tr>
<tr>
<td>WEEE</td>
<td>6</td>
</tr>
</tbody>
</table>

(It is important to note that in the case of the waste and IPPC data that enforcement is integrated across different media (water, waste, air etc) and therefore in many cases that data covers more than water related issues.)

**7.5.4 Other mechanisms (in addition to inspections)**
The EPA use a risk based approach to the enforcement of authorisations that involves the use of a variety of tools ranging from data trending, compliance meeting, advice & guidance, inspections, monitoring and legal actions. The approach to enforcement is
outlined in the EPA report titled - Focus on Environmental Enforcement in Ireland: A report for the years 2006 – 2008. This report is available at the following link - Focus Report - Environmental Protection Agency, Ireland

As noted below, a mandatory environmental audit is among the possible sanctions that authorities can require. The information that polluters are required to provide to the PRTR is seen as a tool encouraging transparency and pollution reduction. Licence charges are also linked to risk and performance and this is explained in the document at this link - Enforcement - Environmental Protection Agency, Ireland

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
Environmental inspection authorities can issue administrative sanctions, which include a range of actions, notably including the following: verbal caution; information notice; mandatory environmental audit; enforcement order, notice or direction (setting specific steps to rectify a breach); clean up notice or order, to remedy harm; regulator step-in; financial security; license amendment, suspension or revocation. As of 2009, available administrative sanctions did not include fines.

Criminal sanctions set in court decisions, and are determined according the type and level of infringement. These sanctions may include fines and/or imprisonment.

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
The system allows for a risk based and outcome driven approach, focusing on issues that present the greatest risks to either the environment or health.

7.7.2 Weaknesses of the system of inspections and enforcement
See next section.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is not clear if the WFD and RBMPs have strengthened enforcement. In comparison with other EU Member States, Ireland has better than average water quality. The principal cause of water pollution in Ireland is nutrient enrichment resulting in the eutrophication of rivers, lakes and tidal waters from agricultural run-off and discharges from municipal waste water treatment plants.

While there is evidence of an overall improvement in water quality, Ireland faces major challenges to achieve water quality targets set for 2015, 2021 and 2027 as required by the WFD. A recent key development has been the publication of the River Basin Management Plans, including the setting of objectives for water bodies and the selection of Programmes of Measures to meet the objectives of the WFD.

The RBMPs may have enabled identification of high priority discharges as part of the development of RBD plans and the plans for the smaller Water Management Units
(example are at this link - Index of /docs/1_River Basin Management Plans 2009 - 2015/SERBD RBMP 2010/Water Management Unit Action Plans

In the case of waste water the WFD has had a major influence on enforcement policy and one of the main enforcement goals in improving waste water management is to meet the requirements of the WFD. This is covered in Chapter 3 of the EPA report at this link - http://www.epa.ie/downloads/pubs/water/wastewater/uww/Urban%20Waste%20Water%20Treatment%20in%202010.pdf.

Further implementation of the RBMPs is however likely to influence changes to enforcement in this area.

It is also clear the current governance and administrative arrangements for water management are not optimal or configured to ensure the delivery of WFD objectives in an efficient and effective manner. A review of water governance is currently under way to deliver more effective integration of roles and policies between the key government departments, the EPA and the lead local authorities. This is covered in the Water Chapter of the recently published State of the Environment Report – Ireland’s Environment 2012: An Assessment
8 References

Eastern River Basin District Project
www.environ.ie Please refer to the response sent to the Commission on RBMP’s

EPA website 2012
EPA website - National Monitoring Programme:
http://www.epa.ie/downloads/pubs/water/other/wfd/
http://www.epa.ie/whatwedo/enforce/network/
http://www.epa.ie/downloads/pubs/indicators/name,33606,en.html
http://www.epa.ie/downloads/pubs/water/wastewater/
http://www.epa.ie/downloads/pubs/water/wastewater/urban%20Waste%20Water
treatment%20in%202010.pdf
http://www.epa.ie/whatwedo/enforce/prosecute/

European Communities Environmental Objectives (Surface Waters) Regulations 2009 (S.I. No. 272 of 2009)

European Communities Environmental Objectives (Groundwater) Regulations 2010 (S.I. No. 9 of 2010)


Final Background Policy, Legislation and Authorities Report 2009
Ireland Guidelines for RBDACs 2005

Interviews: Colin Byrne (DECLG) Brendan Wall (EPA) and Larry Kavanagh (EPA)


Irish statute book: www.irishstatutebook.ie


National summary programme of measures 2008


Personal communication with Dublin City Council
http://prtr.epa.ie/

River basin management plans, 2010 official website www.wfdireland.ie

River Basin Planning Guidance 2008

RMCEI annual returns from each Local Authority to the EPA 2009 and 2010.


Water Matters - River Basin Management Plans documentation - Home Page

Water pollution regulations 2003


1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of Environment, Land and Sea; Regional authorities; RBD authorities, Venice Water Authority</td>
<td>RBD authorities &amp; their institutional committees; Regional authorities; Council of Ministers</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>RBD authorities &amp; their institutional committees; Regional authorities; Council of Ministers</td>
<td>Regional authorities; regional environmental protection agencies; research institutes; national Institute for Environmental Protection and Research</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Regional authorities; regional environmental protection agencies; research institutes; national Institute for Environmental Protection and Research</td>
<td>Regional authorities; provinces; RBD authorities; Ministry of Environment</td>
</tr>
<tr>
<td>Permitting</td>
<td>Regional authorities; provinces; RBD authorities; Ministry of Environment</td>
<td>Regional authorities; provinces; local authorities; Carabinieri (national police corps); national forest protection body; other</td>
</tr>
</tbody>
</table>

Disclaimer:

The document is a fact sheet and does not necessarily represent the official, formal position of any of the partners or the views of the European Commission. The European Commission is not responsible for the use that any third party might make of the information contained in this document.
The main competent authorities responsible for the implementation of the WFD are described below.

The national Competent Authority is the Ministero dell'Ambiente e della Tutela del Territorio e del Mare (Ministry of Environment, Land and Sea). However, as will be seen in the answers to the subsequent questions, both the regions and the RBD authorities also have important roles: the former for monitoring, permitting, planning and a range of other tasks, including direct responsibility for water categories; the latter for the preparation of river basin management plans among other tasks.

1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

In general, the Ministry of Environment has the leading role overall for the directive. The regions, however, are directly responsible for implementing the requirements of the directive for each water category. (One exception is noted below.) A few regions have delegated some powers to the administrative level immediately below, the provinces; regions can also delegate powers to other lower levels (towns and cities, 'consorzi di bonifica ed irrigazione' (described below) and other entities). (Note that such delegation is different from the case of Italy's two Autonomous Provinces, Bolzano/Bozen and Trento, whose role and powers are similar to those of the regions; though not specified in the subsequent questions, these two provinces are included in the term 'regions' wherever it is used.)

The Lagoon of Venice is a special case, governed by 'special' national legislation (dating to before the WFD). The Magistrato alle Acque di Venezia (whose name is translated on its web site as the Venice Water Authority) is an office of the Ministry of Infrastructure and Transport, and it holds broad powers related to water management for the Lagoon and its basin.

In general, the regions are the authorities for all water categories.

1.2 Authorities involved in preparing and approving the RBMPs

Each river basin district (RBD) should have an authority in charge of preparing its RBMP. However, these authorities have only been named on a provisional basis: the authorities for the river basins of 'national interest' - a system in place before the RBDs where set up under the legislation that transposed the WFD, D.Lgs 152/2006 - have been designated as the RBD authorities (Law 13 of 27 February 2009). For ITB, the Po River Basin Authority and the forthcoming RBD authority cover the same territory. For ITG and ITH - the islands of Sardinia and Sicily - the regions are designated as the provisional authorities, and their territory coincides with the new RBDs. For ITA, ITC, ITE and ITF,
however, the existing river basin authorities cover territories that form only a part of the RBDs.

While the RBMPs themselves are prepared by the provisional authorities for Italy’s 8 RBDs, it should be noted that the Ministry of Environment’s web site indicates that the Piani di Tutela delle Acque, the Water Protection Plans prepared at regional level, are components of the RBMPs. (While the regions prepare these Piani di Tutela, the RBD authorities also have a role as they are to give a binding opinion of their conformity with existing acts: D.Lgs 152/2006, Art. 121.)

In addition, the regions sit on the comitato istituzionale, the institutional committee, of each (future) RBD Authority in their territory (in some legislative references this is also called the institutional conference), together with representatives of several national ministries (including the Ministries of Environment, Infrastructure, Productive Activities and Agriculture). These committees of the RBD Authorities adopt the RBMPs. The plans should then subsequently be approved by a Decree of President of the Council of Ministers (i.e. the Prime Minister), after having consulted the ‘State-Regions conference’. As of February 2012, however, it does not appear that any of the first round of RBMPs has been so approved. This is important, as approval gives the RBMPs legal force. Coordination mechanisms to deal with multiple authorities:

As noted above, while the RBD Authorities prepare the RBMPs, the regions also have an important role. They are represented in the institutional committee of their RBD Authority. And, as noted above, key ministries including Environment, Infrastructure and Transport, Productive Activities and Agriculture all have representatives on the institutional committees of each RBD Authority.

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The authorities that request monitoring are described below.

The Regions are responsible for all monitoring related to the Water Framework Directive. In most regions, this work will be delegated to the regional environmental protection agency (ARPA - Agenzia regionale per la protezione dell'ambiente) - and thus, to facilities and staff of a body under the regional government. Regions could, however, also delegate other bodies such as research institutes for specific tasks (a region-by-region overview was not found, so it is not known if or how widely this is done).

It can be noted that the national Institute for Environmental Protection and Research, ISPRA (Istituto Superiore per la Protezione e la Ricerca Ambientale), carries out scientific and technical activities for the protection of the environment in areas of national interest; ISPRA has undertaken such work related to monitoring methodologies for water.
Further monitoring actions may be taken in river basins and RBDs. It can be noted that the Po River Authority reports that it has set up its own water quality monitoring network, which is shared with the regions, and also coordinates monitoring on water quantity, in particular related to droughts.

In addition, in the Lagoon of Venice and its freshwater basin, the Magistrato alle Acque is responsible for monitoring activities.

Monitoring is undertaken through the authority’s own facilities and staff.

While the regions are in general responsible for water monitoring of all categories, the Lagoon of Venice is an exception as the Magistrato alle Acque, an office of the Ministry of Infrastructure and Transport, carries out monitoring.

3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 2).

Table 2: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Drinking water supply, sewerage and wastewater treatment have been organised by areas called ATOs (for ambito territoriale ottimale, Optimal Territorial Area): typically, each region will have several ATOs. Each ATO has had its own authority. With Law no. 42 of 26 March 2010, however, the national government abolished the ATO Authorities and gave their responsibilities to the regions; however, the implementation of this abolition has been delayed under subsequent legislation, and a check of several ATO web sites shows that in February 2012 they continued to exist. The ATOs were likely to have been consulted on the RBMPs. The regions, as noted above, are represented in the institutional committees of the RBD authorities - though the RBD authorities, as noted above, have not yet been created. It can be added that Italy has a national Commission that monitors water resources, in particular the work of organisations that provide water services and charge tariffs, such as those for municipal water services (Commissione nazionale di vigilanza sulle risorse idriche). Moreover, D.Lgs 152/2006 calls for the creation of an Authority with more wide-ranging powers in this</td>
</tr>
<tr>
<td>Directive / Policy</td>
<td>Responsible Authority</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>area; it does not, appear, however, that as of February 2012 this Authority had been created. Moreover, it does not appear either the existing commission or the future authority has a specific role in the preparation of RBMPs or other plans (e.g. Piani di Tutela).</td>
<td></td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>The regions are responsible for identifying nitrate vulnerable zones; in this activity, they should consult with the RBD Authority. The regions are also responsible for the preparation of action programmes to address nitrate pollution. (D.Lgs 152/2006, Art. 92.)</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Bathing waters are monitored at regional level. For any bathing waters that do not meet standards, the regions must communicate to the Ministry of Environment the reasons and the measures taken. (D.Lgs 152/2006, Arts. 79 and 83).</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>See above, UWWT</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>The RBD Authorities are in charge of most activities related to the Floods Directive (Dir. 2007/60/EC), including the preparation of flood risk management plans. The regions, however, have a specific role in the preparation of the elements related to early warning systems; in addition, the National Civil Protection Department is also involved in this work. (D.Lgs 49/2010)</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>While coastal waters are in general the competence of the regions, the Ministry of Environment, Land and Sea has competence for marine waters under the Marine Strategy Framework Directive. (D.Lgs 190/2010)</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>The Ministry of Environment leads national policies under the Habitats and Birds Directives. Protected areas were identified by the regions and then transmitted to the Ministry of Environment, which brought them forward to the EU level. And, as noted elsewhere, the regions and the national Ministry of Environment is represented on the institutional committees of the RBD Authorities. It can be noted that a wide variety of bodies are involved in the management of protected areas, depending on where individual areas are found: those in regional and national parks, for example, are managed by the park authority; the Corpo Forestale (Forestry Corps) may manage protected areas in designated forest areas; other areas may be managed by local governments and other entities.</td>
</tr>
<tr>
<td>Climate</td>
<td>The Ministry of Environment is the lead body for the preparation of national climate change policies. As noted previously, this Ministry is represented on the institutional committees of the RBD Authorities. While the Ministry is expected to release a national plan related to greenhouse gas emissions in the first half of 2012, no information was found at national or regional level concerning</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority. As can be seen from the information above, the regions have a central role in most of these policies.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 3).

**Table 3: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
</table>
| Agriculture     | The Ministry of Agriculture (formally, the Ministry of Agricultural, Food and Forestry Policies, Ministero delle Politiche Agricole Alimentari e Forestali) is responsible for policies in the area of agriculture. The Ministry is is represented on the institutional committees of the RBD Authorities.  
It can be noted that irrigation for agriculture is managed mainly by the 'Consorzi di Bonifica', which act for sub-basins. The autonomous bodies receive tariffs that cover some or all of their operating budget; however, their investment budget has come from the regions as well as national sources. The Consorzi are not represented in the RBD Authorities, though it is expected that they will be among the 'institutional subjects' to be consulted in the preparation of the RBMPs (as per Art. 117 of D.Lgs 152/2006). |
| Water           | Drinking Water & Wastewater  
Drinking water supply, sewerage and wastewater treatment have been organised by area, called ATO, ambito territoriale ottimale (Optimal Territorial Area): typically, each region will have several ATOs. Each ATO has had its own authority. With Law no. 41 of 26 March 2010, however, the national government abolished the ATO Authorities and gave their responsibilities to the regions. The web sites of a number of ATO Authorities suggest, however, that in early 2012 these bodies were still operating; however, subsequent national legislation has delayed their abolition. The ATOs were not represented in the RBD Authorities, though they were likely to have been consulted on the RBMPs in the same manner at the Consorzi di Bonifica mentioned above. Drinking water services themselves are directly operated by the 'servizi idrici integrati', companies for integrated water services. The regions are represented in the institutional committees of the RBD authorities - though the later, as noted above, have not yet been created. It can be added that Italy has a national Committee that monitors water resources, in particular the work of organisations that provide water services and charge tariffs, |
<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>such as those for municipal water services (Commissione nazionale di vigilanza sulle risorse idriche). Moreover, D.Lgs 152/2006 calls for the creation of an Authority with wide-ranging powers in this area; it does not, appear, however, that as of early 2012 this Authority has been created. Moreover, it does not appear either the existing committee or the future authority has a specific role in the preparation of RBMPs.</td>
<td></td>
</tr>
<tr>
<td>Energy</td>
<td>The Ministry for Economic Development is responsible for national policies in the field of energy, in particular through its Energy Department. The Ministry is represented on the institutional committees of the RBD Authorities. In addition, regions may make their own planning decisions regarding smaller energy infrastructure.</td>
</tr>
<tr>
<td>Transport</td>
<td>The Ministry for Infrastructure and Transport is responsible for national policies and in this area, including planning for national infrastructure. This Ministry is represented on the institutional committees of the RBD Authorities. In addition, the regions can develop their own plans for transport and mobility (the name varies by region): as noted above, the regions are also represented on the institutional committees of the RBD Authorities.</td>
</tr>
<tr>
<td>Industry IPPC</td>
<td>In terms of industrial policy overall, the Ministry of Economic Development leads policy development at national level. The Ministry of Environment is the lead national body for the implementation of IPPC legislation, including for the permitting of larger installations. The regions are responsible for permitting of smaller installations. Each region will also undertake policies to support and manage industrial development. As noted above, the Ministry of Environment, Ministry of Economic Development and the regions are all represented on the institutional committees of the RBD Authorities.</td>
</tr>
<tr>
<td>Industry Non IPPC</td>
<td>The regions are responsible for permitting of smaller installations. In terms of industrial policy overall, the Ministry of Economic Development leads policy development at national level. Each region will also undertake policies to support and manage industrial development. As noted above, the Ministry of Environment, Ministry of Economic Development and the regions are all represented on the institutional committees of the RBD Authorities.</td>
</tr>
<tr>
<td>Mining</td>
<td>In general mining and quarrying is regulated at regional level. Some regions have established plans for this activity: for example, the Veneto Region has a 2003 Regional Plan for Quarrying Activities (Piano Regionale Attività di Cava); Sardinia has prepared a Plan for Extractive Activities (it appears that this has not yet been approved). In at least one case (Sardinia), a region is also the owner of a mining company.</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority. As noted in this section, many of the authorities, including the regions and several national ministries, are represented on the institutional committees of the RBD Authorities. And as noted previously, co-ordination on permitting and other decisions is carried out via a conference of services.

4 Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation
According to Art. 117(1), the RBD authorities must guarantee the participation of all institutional subjects which are competent in the specific sector in the process of drafting of the RBMPs. This provision is to be read in conjunction with Article 66(7) pursuant to which the RBD authority should encourage the active involvement of all concerned parties in the preparation, review and updating of the basin plans. For these purposes, the legislation requires the RBD authorities to publish and make certain documents available to the public, and to give it at least six months for the submission of written observations.

Legislative Decree No. 152/2006 does not explicitly mention the stakeholders which may participate in the process of preparation, review and updating of the basin plans, nor is there any definition of the ‘institutional subjects’ which should be involved in the process of drafting the RBMP. The only (unofficial) reference is contained on the website of the Ministry of Environment which refers to the definitions provided in the Guidance document No. 8 produced by the European Commission.120

No specific mention is made in the legislation concerning the involvement of stakeholders in the phase of implementation of the plan.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
New authorities have been created as a result of the WFD. The legislation transposing the WFD (D.Lgs 152/2006) created eight RBDs. Each RBD will have an authority, and the institutional committees of these authorities will bring together the regions within the RBD as well as key national ministries. However, the current authorities are provisional.

As noted above, the authorities of ‘river basins of national importance’ currently act as provisional RBD authorities. (It could be expected that these bodies will be eventually be integrated into the permanent RBD authorities, when they are created.)

As noted above, the institutional changes set out in 2006 legislation are not fully in place, as the current RBD authorities are only provisional. In principle, once the changes

120 http://www.direttivaacque.minambiente.it/partecipazione.html. According to the information available, for example, on the website of the RB authority of the Po river, the following criteria has been employed for the purposes of identifying the relevant stakeholders: institutional competence, specific expertise, economic, social and environmental interests which may be affected by the effect of the RBMP, possible conflicts which may arise from the multiple use of water. The website also specifies that the consultation phase remains, in any event, open to the general public. See http://adbpo.it/on-multi/ADBPO/Home/PianodiGestioneepartecipazionepubblica/Informazioneconsultazioneepartecipazione.html
are implemented, it will mean that water authorities will cover the whole national territory and complete river basins: under the former system, minor rivers that were not part of 'river basins of national importance' were under regional authority. It is possible that the institutional committees of the future RBD authorities will strengthen links among the regions for the management of inter-regional water bodies.

5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the RBMP is regulated. This is explicitly mentioned in Article 65(4) of Legislative Decree No. 152/2006.

The main Italian legislation transposing the WFD (i.e. Legislative Decree No. 152 of 2006) delineates the river basin districts (RBDs) in its Art. 64 (Part III of the Decree). Pursuant to Article 63(1) of this legislation, in each RBD, a RBD authority is to be established. One of the bodies of the RBD authority, the ‘permanent institutional conference’, is entrusted with the task of adopting a basin plan (Art. 63(5)(e) and Art.

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121 According to Art. 63(4), the planning acts of the RBD authorities are adopted by the ‘permanent institutional conference’. The participants to this conference are the Minister of Environment, the Minister of Infrastructure, the Minister of Productive Activities, the Minister of Agriculture and Forestry, the Minister of Public Administration, and the Minister of Culture or the delegated junior Ministers, as well as the Presidents of the Regions and the Autonomous Provinces whose territory is
66(2)), which comprises also the RBMP (Art. 117(1)). The basin plans are then subsequently approved by a Decree of President of the Council of Ministers (i.e. the Prime Minister), after having consulted the ‘State-Regions conference’ (Art. 57(1)(a)(2) and Art. 66(6)). The PoMs are considered an implementation of the RBMPs (Art. 69(1)), and they are adopted, pursuant to Art. 70(1), by the ‘permanent institutional conference’ mentioned above.

In the absence of RBD authorities, however, subsequent legislation (Law Decree No. 208 of 2008, as converted and amended by Law No. 13 of 2009) called on the existing authorities of river basins of national importance to prepare the RBMPs, including their PoMs. The RBMPs have been thus adopted by the institutional committees of the ‘RB authorities of national importance’ (autorità di bacino di rilievo nazionale), together with delegates from regions which are not represented within these authorities. For RBDs where the authorities of river basins of national importance do not exist, the regions have approved the RBMPs (Art. 1(3-bis) of Law Decree No. 208 of 2008).

Eight RBMPs have thus been drawn up by the RB authorities of national importance or, where they were competent, to do so, by the Regions and have received positive opinion from the ‘State-Regions conference’ on 27 July 2011. As of today, however, they have not yet received a formal approval by the President of the Council of Ministers.

6.1.1 Legal effect

The basin plans, and consequently the RBMPs (which are a part of the basin plans), are approved with a Decree of the President of the Council of Ministers. In the hierarchy of legal sources, they are thus below (1) the Constitution and laws of constitutional nature; (2) regional and national laws and acts having the legal force of laws (i.e. legislative decrees and law decrees) but they are above regional, provincial and local regulations.

Pursuant to Article 65(4) of Legislative Decree No. 152/2006, the provisions contained in an approved basin plan have direct binding effect for the public administrations and bodies, as well as for private parties, in case of provisions having such effect according to the basin plan itself. Since, according to Article 117(1) of Legislative Decree No. 152 of 2006, RBMPs are parts of the basin plans, Article 65(4) is applicable to RBMPs. Pursuant to point 5 of Annex 4A to Part III of Legislative Decree No. 152/2006, the RBMPs need to contain, amongst others, the environmental objectives for surface waters, groundwater and protected areas. Thus, the environmental objectives have as such the same legal status as the other prescriptions contained in the RBMPs.

122 The ‘State-Regions conference’ is a body aimed at creating a smooth cooperation between activities at national and regional level. Within this body, inter alia, the Government acquires the advice of the Regions on administrative and legislative acts of regional interest.

123 There are seven RB authorities of national importance, i.e. (1) RB authority of the Isonzo, Tagliamento, Livenza, Piave, Brenta-Bacchiglione rivers; (2) RB authority of the Adige river; (3) RB authority of the Po river; (4) RB authority of the Arno river; (5) RB authority of the Tevere river; (6) RB authority of the Liri-Garigliano and Volturro rivers; and (7) RB authority of the Serchio river. The first six have been established by Law No. 183 of 18 May 1989 on norms concerning the organisational and functional reshaping of soil protection (Legge 18 maggio 1989 n. 183, Norme per il riassetto organizzativo e funzionale della difesa del suolo) (published in the Official Journal of the Italian Republic No. 120 of 25 May 1989, ordinary supplement). The seventh is a ‘pilot’ RB authority, which was established by the Inter-ministerial Decree 1 July 1989 and subsequently given the status of RB authority of national importance.

124 This has indeed been the case for Sicily and Sardinia. See the website of the Ministry of Environment http://www.direttivaacque.minambiente.it/stato_attivita.html

http://www.statoregioni.it/dettaglioDoc.asp?idprov=9781&iddoc=33084&tipodoc=2&CONF=
6.1.2 Legal status in relation to individual decisions

As mentioned above the RBMP is binding on public administrations and bodies, which would suggest that they must respect its content from the moment it is approved when granting permits and issuing other administrative decisions. However, there is no explicit provision requiring to review the existing permits/concessions in line with the environmental objectives set out in the RBMPs.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations

In order to obtain an authorisation for a hydropower installation, two subsequent steps are to be followed, i.e. the concession and the authorisation procedures.

The concession regime was originally regulated in Royal Decree No. 1775 of 11 December 1933, consolidated text on water and electric installations (Regio Decreto 11 dicembre 1933 n. 1775, Testo unico delle disposizioni di legge sulle acque e impianti elettrici)\(^{126}\) (hereafter ‘Royal Decree No. 1775 of 1933’).\(^{127}\) This regime has been partially modified with the entry into force of Legislative Decree No. 79 of 16 March 1999 on the transposition of Directive 96/92/EC concerning common rules for the internal market in electricity (Decreto legislativo 16 marzo 1999 n. 79, Attuazione della direttiva 96/92/CE recante norme comuni per il mercato interno dell'energia elettrica)\(^{128}\) (hereafter ‘Legislative Decree No. 79 of 1999’).

Article 12(10) of Legislative Decree No. 79 of 1999 grants the Regions and the autonomous Provinces the competence to grant concessions for hydropower installations. According to Article 7 of Royal Decree No. 1775 of 1933 (as modified by Legislative Decree No. 152 of 2006), the applications for concessions must also be transmitted to the ‘old’ RB authorities, which issue a binding opinion concerning the compatibility of the proposed water use with the so-called protection plan (piano di tutela).\(^{129}\)

The duration of the concession is regulated also in Article 12 of Legislative Decree No. 79 of 1999. In general, according to Article 12(1), concessions are granted for a period of 30 years.

As far as the authorisation process is concerned, hydropower is considered a renewable source within the definition of Art. 2(1)(a) of Legislative Decree No. 387 of 29 December 2003 on the transposition of Directive 2001/77EC on the promotion of electricity from renewable energy sources in the internal electricity market (Decreto Legislativo 29 dicembre 2003 n. 387, Attuazione della direttiva 2001/77/CE relativa alla promozione dell’energia elettrica prodotta da fonti energetiche rinnovabili nel mercato interno dell’elettricità)\(^{130}\) (hereafter ‘Legislative Decree No. 387 of 2003’). The authorisation

\(^{126}\) Published in the Official Journal of the Italian Republic No. 5 of 8 January 1934.

\(^{127}\) A hydropower installation falls within the category, provided in Article 6(2)(a) of Royal Decree No. 1775 of 1933, of ‘big derivations’. Big derivations are, amongst others, those which exceed an annual average nominal power of kW 3.000 if the purpose of the derivation is the production of energy.

\(^{128}\) Published in the Official Journal of the Italian Republic No. 75 of 31 March 1999.

\(^{129}\) The protection plans were part of the basin plans under the regime in force before the transposition of the WFD. These plans were adopted by the Regions and contained, amongst others, the environmental objectives and the protection measures for each river basin.

\(^{130}\) Published in the Official Journal of the Italian Republic No. 25 of 31 January 2004 (ordinary supplement).
system for renewable sources (and hence hydropower) is contained in Art. 12 of this Legislative Decree, as amended by Legislative Decree No. 28 of 3 March 2011 on the transposition of Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (Decreto Legislativo 3 marzo 2011, n. 28, Attuazione della direttiva 2009/28/CE sulla promozione dell’uso dell’energia da fonti rinnovabili, recante modifica e successiva abrogazione delle direttive 2001/77/CE e 2003/30/CE.\textsuperscript{131}

The applicable legislation makes a difference between installations above and below 100 kw.

For the installations below 100kW, no authorisation is actually required but a ‘simplified authorisation procedure’. The installations above 100kW are subject to an authorisation procedure (\textit{autorizzazione unica} – single authorisation procedure) which is issued by the Regions or by the Provinces (where they have been delegated by the Regions to do so). The procedure is called ‘single authorisation procedure’ because it is issued at the end of one single decision-making procedure, to which all concerned administrations take part. According to Article 12(3), within 30 days of receipt of the application, the Region must organise a so-called ‘service conference’ (\textit{conferenza di servizi}), at end of which the authorisation is issued.\textsuperscript{132} The RB authorities participate to the service conference with the role of assessing whether the proposed authorisation is compatible with the basin plans. The authorisation does not only allow the holder to build and use, in accordance with the approved project, the authorised installation, but must also contain, according to Art. 12(4), the obligation to implement environmental recovery measures.

There are no provisions concerning the coordination between the RBMPs and the concession and authorisation procedures for hydropower installations, which means that there is no obligation on the side of the competent authorities to review the concessions when a RBMP is issued. There are also no specific provisions concerning the alignment of revision cycles of authorisations and concessions, and RBMPs.

\textbf{Abstraction for agriculture}

The abstraction of water is in general regulated in the Royal Decree No. 1775 of 1933. The competent authorities to issue these concessions are the Regions or the Provinces where they have been delegated by the Regions. This competence is to be derived from Legislative Decree No. 112 of 31 March 1998 on the conferral of State functions and tasks to the Regions and the other local bodies, in implementation of Section 1 of Law No. 59 of 15 March 1997 (Decreto Legislativo 31 marzo 1998 n. 112, Conferimento di funzioni e compiti amministrativi dello Stato alle regioni ed agli enti locali, in attuazione del capo I della L. 15 marzo 1997, n. 59).\textsuperscript{133} As for hydropower installations, according to Article 7 of Royal Decree No. 1775 of 1933, the requests for concessions must also be transmitted to the ‘old’ RB authorities, which issue a binding opinion concerning the compatibility of the proposed water use with the protection plan.

\textsuperscript{131} Published in the Official Journal of the Italian Republic No. 71 of 28 March 2011 (ordinary supplement).
\textsuperscript{132} The \textit{conferenza di servizi} is a simplification mechanism provided for by Italian law which is aimed at collect authorizations, licenses, permits and so on through convening a meeting of all concerned administrations. This mechanism is disciplined in Law No. 241 of 1990 as later modified.
\textsuperscript{133} Published in the Official Journal of the Italian Republic No. 92 of 21 April 1998 (ordinary supplement). According to Article 89(1)(f), Regions and local bodies are competent for the concessions for water derivations.
According to Article 21 of Royal Decree No. 1775 of 1933, the concessions cannot be granted for more than 30 years or 40 years in case the concession was granted for irrigation purposes.

As for hydropower installations, there are no provisions concerning the coordination between the RBMPs and the concession procedures for abstraction of water, which means that there is no obligation on the side of the competent authorities to review the concessions when a RBMP is issued. There are also no specific provisions concerning the alignment of revision cycles of concessions and RBMPs.

**IPPC and other industrial installations**

The authorisation procedure for IPPC installations is regulated in Title III-bis of Legislative Decree No. 152 of 2006.

For larger installations, the competent authority is the Ministry of Environment which avails itself of the activities of a technical committee, while for all other installations the authorisation is granted by the Regions or by the Provinces where they have been delegated by the Regions (Article 7(4), (4-bis) and (4-ter) of Legislative Decree No. 152 of 2006).

According to Article 29-octies(1) of Legislative Decree No 152 of 2006, IPPC authorisations have a general duration of 5 years. However, the authorisation may have a 6-year duration for installations which are provided with UNI EN ISO 14001 certificates (Article 29-octies(3)), a 8-year duration for installations with EMAS registration (Article 29-octies(2)) and a 10-year duration for animal breeding.

Also for IPPC installations, there are no provisions concerning the coordination between the RBMPs and the IPPC authorisations, which means that there is no obligation on the side of the competent authorities to review the authorisations when a RBMP is issued. There are also no specific provisions concerning the alignment of revision cycles of IPPC authorisations and RBMPs.

**6.2 Relationship with other sectoral policy plans**

**Relationship between the RBMPs and other plans**

There are clear provisions concerning the relationship between the RBMPs (or, more correctly, the basin plans) and other plans.

In general, according to Article 65(4), the social and economic development plans and programmes, and the plans and programmes concerning special planning and land use should be coordinated with the approved basin plans and cannot, in any event, contradict them.

For the purposes of achieving this coordination objective, Article 65(5) requires the competent authorities to adapt, within twelve months from the approval of a basin plan, their territorial plans and regional programmes such as those concerning agricultural, zootechnical, forestry activities as well as those concerning water protection, waste management, environmental protection and land reclamation.

Furthermore, according to Article 65(6) of Legislative Decree No. 152/2006, the Regions must, within 90 days from the date on which a basin plan is published in the Official
Bulletin of the Region, adopt, where necessary, the provisions implementing the basin plan in their urban development plans. After this 90-day deadline, the administrative bodies concerned by the basin plan are anyway obliged to respect the plan in their urban development plans.

Where these administrative bodies do not adapt their urban development plans within 6 months from the date on which the regional provisions mentioned above were communicated, or anyway within 9 months from the date on which the basin plan was approved, the Regions may, at their own initiative, adapt the urban development plans.

**Role of the RBD authorities in the preparation of other plans**

The RBD authorities also play a role in the preparation of other plans. In particular, according to Art. 63(7), these authorities must be consulted on the coherence of EU, national, regional and local plans concerning soil conservation, combating desertification, water protection and the management of water resources with the objectives of the basin plan.

Specifically with regard to the Flood Directive, the Italian legislation transposing the Directive\(^\text{134}\) states, in Article 3, that the RBD authorities are the competent authorities to carry out the preliminary flood risk assessment, prepare the flood hazard maps and the flood risk maps, as well as the flood risk management plans. Furthermore, Article 7(3) specifies that these plans are to be drawn ‘in the framework of the basin planning activity’ (meaning essentially the drawing of the basin plans).

### 7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

#### 7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

In general, the principal authorities issuing permits are the regions. (Some regions have delegated permitting powers to the administrative level immediately below, the provinces.)

Permits (licences) are not coordinated by the main WFD competent authority. Where authorities other than the regions are involved in permitting, these are indicated below. No information was found regarding an inventory (or inventories) of permits, though here a review may be needed at regional level.

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The responsible authorities for different water users are indicated in the table below (Table 4).

**Table 4: Permits and the Competent Authorities**

<table>
<thead>
<tr>
<th>Permits</th>
<th>Competent Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Regions are the main permitting body. RBD authorities also give their binding opinion on abstraction permits ('derivazioni'), in particular in terms of their compatibility with regional Piani di Tutela (Water Protection Plans); note that while the Piani di Tutela are considered sub-elements of the RBMPs, this requirement does not refer to the RBMPs themselves. Royal Decree No. 1775 of 1933 (as amended).</td>
</tr>
<tr>
<td>Impoundments</td>
<td>The procedure for abstractions described above refers generally to 'derivazioni', which can include impoundments. Regions are the main permitting body; they are also designated as the permitting authority for dams (D.Lgs 152/2006, Art. 114).</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>For IPPC installations, there is a distinction between larger installations, whose permits are granted by the national Ministry of Environment, and the smaller installations, where the regions are in charge of permitting. (D.Lgs 59/2006).</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>No information found.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>Regions have the responsibility for protecting river banks and the strip of land at least 10 metres from the banks (D.Lgs 152/2006, Art. 115), and are thus the permitting body for any alterations in this area. In addition, the regions are responsible for any permits related to dams (Art. 114). Thus, it appears that in general, regions are in charge of most permits related to hydromorphological alterations. However, information was not found on all types of such alterations. For water transfer schemes between regions or RBDs, it can be noted, the Ministry of Environment carries out permitting (D.Lgs 152/2006, Art. 158).</td>
</tr>
</tbody>
</table>

No information can be found specifically regarding co-ordination on water permitting. As noted above, most permitting is carried out at a single level, i.e. by the regions. In general in Italy, where administrative decisions, including permits, involve more than one authority, a 'Tavola dei servizi' or 'Conferenza dei servizi' (Conference of services) is convened to reach a common decision. This conference should all involve all authorities with a say in a decision, including offices at the same administrative level (e.g. different offices of a regional government) as well as offices at other administrative levels, where appropriate.
7.2 Permit applications

The process for application for a permit is described below.

The brief, illustrative overview of the process presented here focuses on an example of a request for a permit to discharge wastewater. In general, the company or entity presents a request for permit to the 'Sportello unico per le attivita' produttive' (Common window for productive activities), which is the mechanism for accepting all permit requests for enterprises across different policy areas. This permit request is then transmitted to the regulatory authority - the region, unless the region has devolved authorisations to the provincial level. The regulatory authority will then communicate to the applicant when the procedure has been opened: a decision must be issued within a specific date from that decision. For a request for a wastewater discharge permit in the Province of Parma (which is a regulatory authority, as the Region of Emilia Romagna has devolved permitting in this area to provincial level), for example, the Province's decision on the permit must be made within 30 days of the application; however, if the local municipality does not have a 'common window' through which to submit the application, then the period is 90 days. If the information provided in the application is incomplete, however, the procedure is suspended until the applicant has provided full information (the information found does not specify whether a completeness check is made only at the beginning of the procedure or if a request for information could also come during the procedure). The permit may specify a series of requirements for the permit holder, beyond those set in existing legislation. The regulatory authority will consult with other authorities where they are directly involved: this may include, as examples of those commonly involved, municipalities, municipal water services areas (ATOs) and bodies that manage Natura 2000 areas. No information was found on requirements for informing the public, or on the provision of reasons for rejecting a permit. As a final note, it should be recalled that this information concerns a simple water discharge permit - not an IPPC permit, which is described below. (From Provincia di Parma).

Differences for different types of water or scale are detailed below (Table 5).

Table 5: Differences in the permit application process for different water uses

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>For abstractions, a permit request is made to the region (or the province if a region has delegated its powers in this area). Italian law distinguishes between large and small abstractions (‘grandi e piccole derivazioni’, which also include impoundments). The basin authority must also be consulted, and must give its assent within 40 days (90 days for large abstractions), in terms of compatibility with Piano di Tutela, as described above.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>The procedure for abstractions described above refers generally to 'derivazioni', which can include impoundments. For alterations that are requested for hydropower plants above 100 KW, the procedure is set under D.Lgs 387 of 2003 (as amended by D.Lgs 28 or 2011): the Regions decide on a single permit for the facility through a 'conference of services' that must be convened within 30 days of the receipt of a permit</td>
</tr>
<tr>
<td>Water Use</td>
<td>Permit Application Process</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Water Use Permit Application Process</td>
<td>In other words, this follows a similar approach to that via the 'Sportello unico per le attivita' produttive', described above for simple wastewater discharge permits. For small hydro plants (under 100 KW), however, the permit is automatically granted if the relevant public authorities do not respond within 30 days.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>The description above focused on simple water discharge permits. For IPPC permits, the procedure is set under national law (D.Lgs 152/2006, as modified by D.Lgs 128/2010): within 30 days of the presentation of a permit request, the regulatory authority must inform the applicant whether or not the request is complete; if not, the applicant then has 30 days to complete the request. Within 30 days of receiving a permit request, the regulatory authority informs the applicant that the procedure has been opened. Then, within 15 days, the applicant must publish information in the press; written comments can be presented for the next 30 days. The regulatory authority then convenes a 'conference of services', bringing together all interested government bodies: this conference should finish its work within 90 days. However, the conference can request additional information, which must be presented within 90 days.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>No information found</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>For water transfer schemes between regions or RBDs, the Ministry of Environment carries out permitting; a specific permit procedure for this case was not found. (D.Lgs 152/2006, Art. 158)</td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, impoundments and point source discharges, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

As a general note, public bodies that could request a permit for abstractions include the Consorzi di bonifica ed irrigazione, which manage irrigation and related infrastructure, and the Servizi idrici integrati (municipal water service companies, which are likely to be publically owned companies). These are separate from the regions (or provinces, where delegated), which would grant the permits: thus the applicant is not directly involved in water resource management. It should also be noted that in general (i.e. also for the following categories), the mechanism of the 'conferenza dei servizi', described above, is intended to ensure that the viewpoints of all relevant government bodies are taken into account in permit decisions. Another mechanism that could apply is the EIA procedure (and potentially SEA). Large projects undertake a national EIA, while smaller ones undertake regional EIAs (and thus minimum eligibility criteria can vary by region).
As a general note, it is possible that public bodies such as the Consorzi di bonifica and the Servizi idrici integrati (integrated water service companies) may request permits for impoundments. Requests for impoundments for hydroelectricity are likely to be made by private companies. These are separate from the regions (or provinces, where delegated), which would grant the permits: thus the applicant is not directly involved in water resource management. Mechanisms to address conflicts of interest are the conference of services and, possible, EIA/SEA procedures, all described above.

Public bodies that could request a permit for point source discharges include the Servizi idrici integrati (municipal water service companies), as these manage wastewater treatment plants. These are often publicly owned companies, and thus are separate from the regions (or provinces, where delegated), which would grant the permits: thus the applicant is not directly involved in water resource management. In these and other cases, mechanisms to address conflicts of interest are the conference of services and, possible, EIA/SEA procedures, all described above.

Regarding permits for diffuse pollution measures, there is no information on whether there could be situations in which the applicant for the permit is also involved in water resource management.

Regarding permits for hydromorphological alterations, it is unclear whether there could be situations in which the applicant for the permit is also involved in water resource management. The situation is not completely clear, at least to the assessor. There may be conflicts of interest regarding hydromorphological alterations for flood control, which in general should be carried out as per regional plans. The regions also hold the main powers in terms of managing navigation in internal waters, and here there may be conflicts with their role for the implementation of the Water Framework Directive. In the Lagoon of Venice, the Magistrato alle Acque is generally in charge of water issues: here there could be conflicts for navigation and specifically for dredging as the Magistrato alle Acque is responsible for navigation and also for certain permitting and for the protection of these transitional waters. Conflicts of interest might arise for water transfer schemes between RBDs or regions: any such schemes should be decided through accords between the regions and RBD authorities, also with the involvement of national ministries. The Ministry of Environment provides permitting in this case. In these and other cases, mechanisms to address conflicts of interest are the conference of services and, possible, EIA/SEA procedures, all described above.

7.3 Enforcement of permits: authorities

Italy has an articulated set of authorities that work on the enforcement of water-related permits.

In general, for the imposition of sanctions for water pollution, the competent authorities are the Regions or the autonomous Provinces (aside from violations of small operations, for which the competent authority is the Municipality) (Art. 135(1) of D. Lgs. 152/2006). The regions can also delegate enforcement powers to the provinces or to local governments.

Concerning water abstractions for agriculture, the controls and inspections are carried out by the authorities that grant the concessions: the Regions (or the Provinces where they have been delegated by the Regions), if necessary together with the Regional or Provincial Environmental Agencies.
In the Friuli Venezia Region, for example, the regional government’s water service (Servizio Idraulica) undertakes controls of water users, including agriculture, industry and hydroelectric plants. The regional environmental protection agency (ARPA) controls wastewater discharges.

Controls and inspections for water pollution are also carried out by the environmental protection section of the Carabinieri, a national police corps. The legislative framework provides also that the national forest protection body (Corpo forestale dello Stato), the financial police (Guardia di finanza) and other police forces may 'intervene' in control and inspection activities (Art. 135(2) of D. Lgs. 152/2006).

Furthermore, the harbourmaster’s offices (Corpo delle capitanerie di porto) and the coast guard (Guardia costiera) are competent for inspections and controls when water pollution affects the coastal and marine environment (Art. 135(2) of D. Lgs. 152/2006).

As noted above, the regions play a key role in enforcement, though national bodies - such as the Carabinieri - are also involved.

There are not separate authorities responsible for enforcement of different economic sectors. In general, the bodies indicated above - and in particular the regions - are competent for enforcement across different sectors.

Mining: controls and inspections are carried out by the Regions or Provinces through the mining police.

Hydroelectricity: In general, the regions.

There are not separate authorities responsible for the enforcement of different types of water-related permits. In general, the bodies indicated above - and in particular the regions - are competent for enforcement across different types of permits.

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities

It does not appear that there is a common approach across regarding coordination among different authorities involved in enforcement.

Some regions have initiated coordination mechanisms: for example, the Marches Region has adopted a memorandum of understanding (protocollo di intesa) amongst all bodies which are competent for environmental controls, in order to ensure the sharing of information and avoid overlaps. (The mechanism in the Marches covers several areas, including environment; other coordination areas include enforcement for road safety, food safety and worker health and safety.)

ISPRA (Istituto Superiore per la Protezione e la Ricerca Ambientale) organised working groups to coordinate methods across the regions.

When the Carabinieri undertake environmental enforcement actions, they inform the relevant regional and local authorities. In addition, the Nucleo ecologico operativo of the Carabinieri can call on regional environment agencies (ARPAs) to undertake monitoring or sampling related to an enforcement case.
7.4.2 Between enforcement and water management authorities
It is unclear if the enforcement authorities and water management authorities are separate entities. In general, the regions have competence for both water management and also for enforcement. Information on coordination among bodies at regional level has not been found.

The Minister of Environment can call on the Nucleo Ecological Operativo of the Carabinieri to undertake specific enforcement actions (as per Law 349 of 1986). The Minister can also call on the Coast Guard and the Harbormasters to undertake enforcement actions, and the Minister can also request that the Forestry Corps (under the Minister of Agriculture) and the Financial Guard (partly under the Minister of Cultural Heritage) undertake enforcement actions, via the respective ministers.

7.5 Enforcement actions

7.5.1 Number of inspectors
Information not found. As a range of authorities across different administrative levels are involved in enforcement, aggregated information may not be available for the country as whole. The Carabinieri, for example, have three groups and 29 operational centres for environment (Nuclei Operativi Ecologici), but other officers of the corps can also intervene in environmental cases.

7.5.2 Number of inspections
Information is available for the work of the Carabinieri. In 2010, this corps carried out 730 inspections and controls nationwide related to water pollution.

7.5.3 Number of infringement actions
Information is available for the Carabinieri. In 2010, this corps identified 326 cases of non-conformity nationwide (out of the 730 inspections/controls performed) related to water pollution. The corps issued 345 warnings (segnalazioni) and 3 arrests. Fines for a total of 542,000 Euros were issued, and establishments valued at 46 million Euros were impounded. While data are not provided by sector, they are divided by northern, central and southern Italy: the great majority of activity was carried out in southern Italy.

7.5.4 Other mechanisms (in addition to inspections)
There are reporting requirements for water abstractions, though these can vary depending on regional legislation.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
In Italy, both administrative and criminal sanctions can be applied for violations of permits.

The sanctions (both administrative and criminal) related to water violations include the following:

- Using public water without an authorisation or a concession: suspension of the unlawful use and monetary penalty of 3000 to 30,000 Euro (if violation of small entity: 300 to 1,500 Euro).
- Non-compliance with a wastewater treatment authorisation: warning, suspension or revocation of the authorisation and monetary penalty between 1500 to 15,000 Euro.
- Discharge of wastewater above allowed limits: monetary penalty between 3000 to 30,000 Euro (if discharges are in areas where there is water destined to human consumption or in protected areas: monetary penalty not below 20,000 Euro).
- Discharge of wastewater without authorisation or after the authorisation has been suspended or revoked: monetary penalty between 6000 and 60,000 Euro.
- Discharge of non-allowed substances into the sea: monetary penalty between 1500 and 15,000 Euro.
- Operation of dams above the allowed thresholds or in breach of the requirements of the plan or before the approval of the plan: monetary penalty between 3,000 and 30,000 Euro.
- Discharge of industrial wastewater without authorisation or after the authorisation has been suspended or revoked: imprisonment between two months and two years or monetary penalty between 1500 and 10,000 Euro (if discharge contains dangerous substances: imprisonment between 3 months and 3 years).
- Discharge of dangerous substances in violation of the requirements of the authorisation: imprisonment up to two years.
- Violation of the rules concerning monitoring controls or keeping the results of the controls: imprisonment up to two years.
- Discharge of dangerous substances above allowed thresholds: imprisonment up to two years and monetary penalty between 3000 and 30,000 Euros (if violation concerns specific dangerous substances (specified in an annex): imprisonment between 6 months and three years and monetary penalty between 6000 and 120,000 Euro).
- Discharge of urban wastewater above the allowed threshold: imprisonment up to two years and monetary penalty between 3000 and 30,000 Euros (if violation concerns specific substances: imprisonment between 6 months and three years and monetary penalty between 6000 and 120,000 Euro).
- Violation of a prohibition to discharge: imprisonment up to three years.
- Non-compliance with the prescriptions concerning the water quality objectives: imprisonment up to two years or monetary penalty between 4000 and 40,000 Euro.
- Unlawful use in agriculture of discharges coming from livestock raising or other agricultural installations or non-compliance with the order to cease these activities: imprisonment up to one year or monetary penalty between 1,500 and 10,000 Euro.

Moreover, for violations of permits for water abstractions, the permits can be revoked.

Additional penalties may be set in regional legislation.

Separate penalties are specified for violations of IPPC permits. These include the following:

- Carrying out activities subject to IPPC authorisation without an authorisation or after an authorisation has been suspended or revoked: imprisonment for up to one year or monetary penalty between 2500 and 26,000 Euros.
- Carrying out activities subject to IPPC authorisation after a closure order: imprisonment from 6 months to two years or monetary penalty between 5000 and 52,000 Euros.
- Not respecting the conditions contained in an IPPC authorisation: monetary penalty between 5000 and 26,000 Euros (unless a more serious crime derives from the conduct).

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
Italy’s enforcement system is multi-level and articulated, including several enforcement bodies at national level as well as regional and local level bodies. This means that if one part of the system does not manage to carry out its role fully, it is possible that another body can intervene.

7.7.2 Weaknesses of the system of inspections and enforcement
The ongoing cuts in government spending, including in transfers from the national to the regional level, present a risk for personnel and resources.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is thought that the RBMPs have not strengthened enforcement. In general, the WFD has not affected the structure of enforcement, which was already in place. It can be noted that several RBMPs include measures to strengthen enforcement.
8 References

The relevant legislation concerning the legal nature of the RBMPs is Legislative Decree No. 152 of 3 April 2006 on environmental norms (Decreto Legislativo 3 aprile 2006 n. 152, Norme in materia ambientale)\(^{135}\) (hereafter 'Legislative Decree No. 152 of 2006') and Law Decree No. 208 of 30 December 2008 on extraordinary measures on water resources and environmental protection (Decreto Legge 30 dicembre 2008 n. 208, Misure straordinarie in materia di risorse idriche e di protezione dell'ambiente)\(^{136}\) (hereafter 'Law Decree No. 208 of 2008'), as converted into law\(^{137}\) and amended by Law No. 13 of 27 February 2009 on the conversion into law, with amendments, of Law Decree No. 208 of 30 December 2008 on extraordinary measures on water resources and environmental protection (Legge 27 febbraio 2009 n. 13, Conversione in legge, con modificazioni, del decreto-legge 30 dicembre 2008, n. 208, recante misure straordinarie in materia di risorse idriche e di protezione dell'ambiente)\(^{138}\) (hereafter 'Law No. 13 of 2009').

Carabinieri web site: www.carabinieri.it

Contacts with ISPRA (Institute for Environmental Protection and Research, Istituto Superiore per la Protezione e la Ricerca Ambientale).

D.Lgs 28/2011.

D.Lgs (Legislative Decree) 152/2006, Art. 63 and other (this legislation names the provisional authorities for the RBDs).

D.Lgs 387 of 2003 (as amended by D.Lgs 28 or 2011).

Dr Lilliana Cortellini, Italian Ministry of Environment, Land and Sea

Essential information on river basin management can be found on the website of the Ministry of Environment, which is available at: http://www.direttivaacque.minambiente.it/index.html.

Italian legislation

The Marches Region government, web site for Marche Sicure: www.marchesicure.it

Ministry of Environment: http://www.direttivaacque.minambiente.it

Ministry of Environment, Controlli effettuati dal Comando Carabinieri per la Tutela dell'Ambiente - Anno 2010 (available on http://www.minambiente.it/)


Po River Authority (web page on monitoring): http://www.adbpo.it/on-multi/ADBPO/Home/Monitoraggio/Monitoraggiodelbilancioidrico.html.

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\(^{135}\) Published in the Official Journal of the Italian Republic No. 88 of 14 April 2006 (ordinary supplement).

\(^{136}\) Published in the Official Journal of the Italian Republic No. 304 on 31 December 2008.

\(^{137}\) In the Italian legal system, Law Decrees are acts having the same status as the laws of the Parliament. Law Decrees are issued by the Government on the basis of an extraordinary and urgent need and must be converted into law by the Parliament within a short deadline (i.e. 60 days). If the conversion into law does not take place within the deadline, the Law Decree ceases to have effects.

\(^{138}\) Published in the Official Journal of the Italian Republic No. 49 of 28 February 2009.
Provincia di Parma, Guida all’autorizzazione per lo scarico di acque reflue in corpi idrici superficiali o sul suolo (Guide to permitting for wastewater discharges in surface water bodies or into the soil).

Regio Decreto 1933, n. 1775. Testo unico delle disposizioni di legge sulle acque

Royal Decree No. 1775 of 1933 (as amended).


Selected contacts with regional and national officials.

Veneto Region web pages: http://www.regione.veneto.it/Ambiente+e+Territorio/Ambiente/Geologia+e+georisorse/Cave+e+Miniere/Piano+Regionale+Attivit%C3%A0+di+Cava.htm.

1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Environmental Protection Agency (under Ministry of Environment)</td>
<td>Marine Research Department, Lithuanian Geological Survey, Regional Environmental Protection Departments</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Environmental Protection Agency, Government of Lithuania</td>
<td>Marine Research Department, Lithuanian Geological Survey, Regional Environmental Protection Departments</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Environmental Protection Agency</td>
<td>Marine Research Department, Lithuanian Geological Survey, Regional Environmental Protection Departments</td>
</tr>
<tr>
<td>Permitting</td>
<td>Environmental Protection Agency</td>
<td>Regional Environmental Protection Departments of the Ministry of Environment, Lithuanian Geological Survey, municipalities</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Environmental Protection Agency</td>
<td>Regional Environmental Protection Departments of the Ministry of Environment, regional</td>
</tr>
</tbody>
</table>
The main competent authority responsible for the implementation of the WFD is the Environmental Protection Agency under the Ministry of Environment of the Republic of Lithuania.

There have been no changes in administrative arrangements since the publication of the RBMP.

1.1 Division of responsibilities
There are different authorities responsible for implementing the requirements of the directive for different water categories (groundwater, lakes, rivers, transitional etc.)

The role of the Environmental Protection Agency specified in its regulations is to collect, analyse and provide reliable information on the status of the environment, chemical flows and pollution prevention measures as well as to ensure arrangement of water protection and management for the attainment of water protection objectives. The Agency is also responsible for the development and coordination of basin management plans in the entire territory of Lithuania as well as for the reporting to the European Commission.

Coastal and transitional waters also fall under the responsibility of the Environmental Protection Agency and its subdivision Marine Research Department. The main task of the Marine Research Department is to ensure continuous and complex chemical and biological analyses of the environmental status, air and other environmental components of the Baltic Sea, Curonian Lagoon and fresh surface waters in Klaipeda region, objective assessment of the data obtained, producing forecasts and provision of information to public authorities for the purpose of formulation of environmental policy, validation of environmental measures and assessment of their effectiveness.

The Lithuanian Geological Survey organises exploration and maintenance of groundwater resources. Generally, the Survey organises and performs national exploration of the entrails of the Earth, regulates and controls the use and protection of the entrails of the Earth, collects, stores, and administers state geological information.

Regional Environmental Protection Departments are responsible for controls over the implementation of environmental legislation in the respective regions. The Departments will also be in charge of the controls over the implementation of the WFD requirements in their regions.

Environmental Protection Agency is the main coordinating agency. It receives information from all other related institutions and prepares reports on the implementation of various directives to the European Commission.
Authorities responsible for implementing the requirements of the directive for the different water categories are shown in Table 2.

**Table 2: Summary of authorities responsible for implementing the WFD for different water categories**

<table>
<thead>
<tr>
<th>Water category</th>
<th>Responsible authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>Environmental Protection Agency, Regional Environmental Protection Departments</td>
</tr>
<tr>
<td>Lakes</td>
<td>Environmental Protection Agency, Regional Environmental Protection Departments</td>
</tr>
<tr>
<td>Transitional</td>
<td>Environmental Protection Agency, its Marine Research Department</td>
</tr>
<tr>
<td>Coastal</td>
<td>Environmental Protection Agency, its Marine Research Department</td>
</tr>
<tr>
<td>AWBs</td>
<td>Environmental Protection Agency, Regional Environmental Protection Departments</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>The Lithuanian Geological Survey</td>
</tr>
</tbody>
</table>

Co-ordination among the different authorities for the management of different water categories is formalised.

Coordination is carried out at the technical/senior management/political level.

All related institutions are under the Ministry of Environment, so there are various meetings where the needed information is exchanged.

The authorities involved in coordination are the Environmental Protection Agency and to some extent Ministry of Environment, as the main institution that forms policy in the environmental sector.

**1.2 Authorities involved in preparing and approving the RBMPs**

The Environmental Protection Agency is responsible for the preparation of the RBD Management Plans in the whole of Lithuania. Government of Lithuania is responsible for approving the Plans.

**1.3 Authorities responsible for Programmes of Measures**

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

**2 Monitoring**

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

**2.1 Authorities responsible for Monitoring**

The authority that requests monitoring is the Environmental Protection Agency.
Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

The Environmental Protection Agency and Regional Environmental Protection Departments for surface water are responsible for all three types of monitoring (surveillance, operational and investigative). The Lithuanian Geological Survey for groundwater shares in the responsibility of surveillance monitoring, whilst the Economic entities for groundwater shares in both operational and investigative monitoring.

Because different authorities are responsible for the three types of monitoring, there is a requirement for coordination. Private and public operators provide information to the Geological Survey. The Geological Survey provides information on groundwater monitoring to the Environmental Protection Agency. The latter collects all monitoring information and also acts as coordinating institution for surface water monitoring.

The Environmental Protection Agency and Regional Environmental Protection Departments are responsible for monitoring rivers, lakes, transitional, coastal and AWBs. The Lithuanian Geological Survey is responsible for monitoring groundwaters.

Regional Environmental Protection Departments and the Lithuanian Geological Survey provide information to the Environmental Protection Agency.

3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

**Table 3: Summary of responsible authorities for different directives and policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment</td>
<td>Environmental Protection Agency and municipalities</td>
</tr>
<tr>
<td>Directive</td>
<td></td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Ministry of Environment and Ministry of Agriculture together</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Ministry of Health</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of Health and Ministry of Environment together</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Environmental Protection Agency</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority.

Environmental Protection Authority is responsible for the collection of the information on permits. All related institutions are sending information, related to permits, to the EPA. Moreover, all permits, related to the water sector, should be sent to the EPA for its opinion before approval.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 4).

**Table 4: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Agriculture. Involved in the RBMP development via consultations. Involved in the implementation regarding measures for fish protection, legal measures on fertilisation and training of farmers.</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>Ministry of Health and Ministry of Environment (Environmental Protection Agency). Involved in preparation and implementation.</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td></td>
<td>Ministry of Environment (Environmental Protection Agency). Municipalities. Involved in preparation and implementation.</td>
</tr>
<tr>
<td>Energy</td>
<td>Ministry of Energy. Involved in the implementation regarding measures for hydroenergy.</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Communication. Involved in the implementation regarding measures in sea port.</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>Ministry of Environment (Environmental Protection Agency). Involved in preparation and implementation.</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>Ministry of Economy. Not involved.</td>
</tr>
<tr>
<td>Mining</td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. This is achieved through usual working relations.
4 Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation
Article 25(3) and Article 29 of the Law on Water requires that the institution responsible for administration of the river basin district and the other institutions which have information on the river basin districts must provide this information to the public, water uses and to other interested persons.

Practical involvement of stakeholders is ensured through the role of the River Basin District Coordination Councils in the preparation, updating, adoption and implementation of the RBMPs and PoM. The River Basin District Coordination Councils are established in each of the river basin districts. The main task of the Councils is to coordinate state and local authorities, water users, relevant non-governmental organisations and public interest in the preparation, modification and implementation of RBMPs and PoM. The Councils are composed of 6 representatives from the different ministries (Ministry of Environment; Ministry of Transport; Ministry of Social Security and Labour; Ministry of Economy; Ministry of Agriculture; Ministry of Interior), 3 representatives from EPA (as the institution responsible for administration of RBDs), 1 representative from the Geological Survey of Lithuania, 1 representative from the State Energy and Price Control Commission; 1 representative from the State Service for Protected Areas under the Ministry of Environment, 1 representative from a Regional Environmental Protection Department, 1 representative from each of the municipalities located in the RBD and 1 representative from NGOs related to environment protection, water use, energy development, industry (one from the Confederation of Industrialists and one from the Chamber of Industry), agriculture (the Chamber of Agriculture), hydrology, etc. The River Basin District Coordination Councils discuss RBMPs and PoM and make proposals to EPA as the institution responsible for administration of RBDs and to other state institutions.

The Environmental Protection Agency plays a central role in the public consultation process related to the RBMPs and PoM. The Procedures for preparation of RBMPs and PoM require establishing clear conditions for the public allowing them to comment and make proposals for the drafts of RBMPs and PoM. The Environmental Protection Agency is responsible for the reconciliation of drafts of RBMPs and PoM with the municipalities, NGOs and the public. The public, water users and their associations, NGOs and organisations representing fisheries and natural persons have participated in discussions on the drafts of RBDPs and PoM.

With regard to implementation, all the institutions on which the PoM (as approved by the Government) places obligations must implement the relevant tasks. The Environmental Protection Agency coordinates the implementation process.

5 Impact of the WFD
5.1 Changes to water governance resulting from the WFD
No new authorities have been created as a result of the WFD.
Rather than creating new authorities, changes have been made to existing authorities as a result of the WFD. Competences regarding the WFD implementation were all delegated to the Lithuanian Environmental Agency. Special division on the River Basin Management Division was created.

All the information is in "one hand", there is an institution, which has all methodological support related to the implementation of the WFD and which acquires knowledge on the WFD.
### 5.2 Organisation structure

The following diagram describes the main responsible institutions for preparation and implementation of the RBMPs in Lithuania. The RBMPs and Programmes are approved by the Governmental Order, thus communication of all related institutions during the RBMPs development and implementation is necessary. It is implemented via informal consultations among specialists on a daily basis, as well as required on a higher level by the Governmental Order itself.

![Diagram of authorities responsible for preparation and implementation of RBMPs in Lithuania](image)

This flowchart connector means that the [relevant institution] is responsible for implementation of indicated functions/measures, approved in the four RBD Management Plans in Lithuania.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the RBMP is regulated. Firstly, the RBMPs and PoM are approved by legally binding resolutions of the Government. Those Government resolutions require the state institutions responsible for implementation of the RBMPs and PoM to prepare annual reports on the implementation of measures set out in the RBMPs and PoM. Thus, the Government sets out legally binding strategic planning documents (the RBMPs) and it also requires institutions which are responsible for their implementation to report how the measures referred to in these documents are implemented. Secondly, the Law No IX-1962 of the Republic of Lithuania on Territorial Planning requires that the territorial planning process includes assessment of relevant existing programmes and of planning documents. This means that the RBMPs and PoM, as the planning documents, effect decisions of relevant planning documents.

In Lithuania, the RBMPs (upių baseinų rajono valdymo planai (UBRVP)) and PoM (priemonių programos vandensaugos tikslams upių baseinų rajone pasiekti (Priemonių programos)) are planning documents prepared pursuant to Articles 24 and 25 of the Law of the Republic of Lithuania on Water\(^{139}\). The Law stipulates that the RBMPs and Programme of measures are adopted by the Government of the Republic of Lithuania. The Government has adopted four RBMPs and Programme of measures by the following resolutions:

- Resolution No. 1098 of the Government of the Republic of Lithuania of 2010-07-10 on approval of the Nemunas river basin district management plan and programme of measures for achieving of water protection objectives in the Nemunas river basin district\(^{140}\);
- Resolution No. 1618 of the Government of the Republic of Lithuania of 2010-11-17 on approval of the Lielupe river basin district management plan and programme of measures for achieving of water protection objectives in the Lielupe river basin district\(^{141}\);
- Resolution No. 1617 of the Government of the Republic of Lithuania of 2010-11-17 on approval of the Venta river basin district management plan and programme of measures for achieving of water protection objectives in the Venta river basin district\(^{142}\);


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measures for achieving of water protection objectives in the Venta river basin district;\(^{142}\)；

- Resolution No. 1616 of the Government of the Republic of Lithuania of 2010-11-17 on approval of the Daugava river basin district management plan and programme of measures for achieving of water protection objectives in the Daugava river basin district\(^ {143}\).

The resolutions including the texts of the RBMPs and Programme of measures have been published in the Official Gazette ‘Valstybės žinios’.

Detailed procedure for preparation of the RBMPs and Programme of measures is set out by the legally binding regulation ‘Procedures on Preparation of River Basin District Management Plans and Programme of Measures and their Co-ordination with Foreign Countries’, approved by Order No D1-591 of the Minister of Environment of 25 November 2003, as last amended by Order No D1-605 of 14 July 2010\(^ {144}\) (hereinafter – Procedures for preparation of RBMPs and PoM). This regulation lays down the competences for institutions responsible for preparation of RBMPs and Programme of measures. The Environmental Protection Agency (EPA) under the Ministry of Environment and the Geological Survey of Lithuania (GSL) under the Ministry of Environment are key institutions responsible for preparation of drafts of the RBMPs and PoM.

6.1.1 Legal effect

The RBMPs (UBRVP) and PoM (Priemonių programos) are planning document. In the hierarchy of legal acts they fall under regulations. They are approved by legally binding resolutions of the Government and they cannot contradict existing legislation. On the other hand, they follow formats of the strategic planning documents (strategies, programmes, plans, schemes, etc) rather than formats of the legal acts. That is, preparation of such planning documents is regulated by the Strategic Planning Methodology, approved by the Government Resolution No. 194 of 7 February 2007\(^ {145}\) rather than by the official recommendations applicable for preparation of legal acts. Practically, the RBMPs and PoM are legally binding documents. The public institutions


and municipalities are liable under Article 51 of the Code of Administrative Offences\footnote{146 Lietuvos Respublikos administracinų teisės pažeidimų kodeksas, Valstybės žinios, 1985, No 1-1; 2002, No 112-4972, as last amended on 24 May 2011 by the Law No XI-1407} for failure to implement timely programmes related to protection of environment, e.g., failure to implement timely the RBMP or PoM.

The Law on Territorial Planning requires the provisions of existing programmes and planning documents to be applied in the territorial planning process, i.e. in both the spatial planning and land use planning process. Thus, the RBMPs and PoM, as existing planning documents and programmes, must be applied in the spatial planning and land use planning process, i.e., the RBMPs and PoM have a binding effect on the spatial planning and land use planning. The binding nature of the RBMPs and PoM derives mostly from an obligation of compliance. Article 51 of the Code of Administrative Offences establishes penalties applicable to the administration (to heads of municipalities or state institutions) for failure to implement timely programmes related to protection of environment by violating established requirements. Thus, the RBMPs and PoM have a binding effect on the administration, but not on third parties. The environmental objectives do not have a different legal status compared to the rest of the RBMPs.

\textbf{6.1.2 Legal status in relation to individual decisions}

Other individual (permitting) decisions do not directly require application of the RBMPs and PoM. The legislation sets out only general obligations for the compatibility of individual decisions with the environmental objectives. This is ensured through the effect assessment of draft individual decisions, programs, contracts, negotiating positions in accordance with the Methodology for Effect Assessment of Draft Decisions, approved by the Government Resolution No. 194 of 7 February 2007\footnote{2003 m. vasario 26 d. Lietuvos Respublikos Vyriausybės nutarimu Nr. 256 "Dėl sprendimų projektų poveikio vertinimo metodikos patvirtinimo", Valstybės žinios, 2003, Nr. 23-975, http://www3.lrs.lt/pls/inter3/dokpajieska.showdoc?i?p_id=364877}. The effect assessment of draft individual decisions covers \textit{inter alia} an assessment of how a proposed individual decision will affect water, ecosystems, nature, etc. This implies that proposed individual decisions, programs, contracts and negotiating positions must be also compatible with the RBMPs and PoM.

There is no explicit provision requiring that the existing permit/concession must be reviewed in line with the environmental objectives. In practice, such a review is applicable since the Ministry of Environment is responsible for both: for implementation of the RBMPs and PoM and for permitting. The Ministry of Environment, its subordinate Environmental Protection Agency and regional environmental protection departments under the Ministry of Environment, review existing permits/concessions, in order to achieve the environmental objectives set out in the RBMPs and PoM. However, there is no timeline specified making compatible the individual permitting decisions. Neither the Law on Environmental Protection nor other legislation set out a deadline for making compatible an administrative decision with the RBMPs and PoM.

There are no relevant court cases in Lithuania; however, the above mentioned general obligations, i.e., the effect assessment of draft individual decisions; coordination of spatial planning documents with strategic planning documents which include RBMPs being implemented by subordinated institutions, ensure that any individual decision can be annulled if it does not duly take into account a relevant RBMP or PoM.
The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Pursuant to Article 14 of the Law on Water no special water permit is required for hydropower installations, except meeting the requirements of the Law on Territorial Planning, the Law on Environmental Impact Assessment, the Law on Protected Areas, the Law on Construction and the Law on Water. However, an operator of a hydropower installation with power more than 10 MW has to obtain a non-IPPC permit grounded on water abstraction criteria. That is, a hydropower installation with power below 10 MW does not require any permit, except meeting general requirements mentioned below, and a hydropower installation with power above 10MW requires a non-IPPC permit regulating water abstraction. The Government approved a list of rivers or a part of rivers where hydropower installations are not allowed. For those rivers where hydropower installations are allowed, the Law on Water requires that legal and natural persons using water bodies for hydro-power meet the following general requirements:

- observe the regime of level fluctuations of the water body;
- let the environmentally protected water debit through hydro-technological facilities;
- report to the competent authority data on the water flow through the facilities;
- maintain the hydro-technological facilities properly, ensure their safety, take the appropriate measures to eliminate the processes of erosion in the banks of the water body;
- establish effective measures allowing free migration of fish through the installation.

Thus, the compatibility of decisions related to hydropower installations with the RBMPs is ensured through the spatial planning and/or EIA process.

**Abstraction for agriculture**

The Law on Water requires permits for water abstraction. Lithuania has integrated water abstraction permits in IPPC permits. Rules on Issuance, Renewal and Revocation of IPPC Permits⁴⁴⁸ (hereinafter – IPPC Rules) regulate permitting of industrial and agricultural water use activities. These include both: IPPC activities (installations) and non-IPPC activities (installations). Legal and natural persons who abstract 100m³ or more water per day must obtain IPPC permit or non-IPPC permit. The compatibility of decisions related to water abstraction with the RBMPs is ensured through the IPPC Rules as described below.

**IPPC and other industrial installations**

As mentioned above, the IPPC Rules establish permitting procedures for both: IPPC activities (installations) and non-IPPC activities (installations). More stringent

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requirements are applicable to IPPC activities (installations) and less stringent – to non-IPPC activities (installations).

Paragraph 48.3 of the IPPC Rules obligates the permitting authorities to analyse whether an operator who applies for an IPPC or non-IPPC permit is technically and economically apt at implementing environmental protection measures, including the measures set out in the PoM. As mentioned above, the regional environmental protection departments are responsible for both: for issuance / updating of IPPC and non-IPPC permits and for coordination of measures implementing the RBMPs and PoM. Thus, they are responsible for making compatible water aspects of authorisations and control whether IPPC or non-IPPC permits support achievement of the environmental objectives, i.e., support implementation of the RBMPs and PoM. In specific circumstances, e.g. if it becomes clear that a water body will not meet the good water status requirements (environmental objectives) in good time, the permitting authorities must review the IPPC or non-IPPC permit by establishing more stringent permit conditions. This is implied from paragraphs 11.2 and 60.2 of the IPPC Rules requiring them to meet all environmental requirements (e.g. requirements to implement environmental measures set out in the legally binding documents – RBMPs and PoM) and correct permit conditions if needed. It should be noted in this context that the PoM themselves include measures requiring competent authorities to amend the IPPC Rules in order to support the implementation of the RBMPs and PoM. It is likely that the competent authorities by amending the IPPC Rules will establish clearer requirements to be laid down in permits in order to achieve environmental objectives.

6.2 Relationship with other sectoral policy plans

There is no explicit provision requiring the RBMP to have a binding effect on the spatial planning process. Accordingly, the timeline for revision is not aligned. Indirectly the RBMP is binding (obligation of compatibility) in relation to a range of different planning and land use documents:

- all planning documents (plans, strategies, programmes, schemes, etc) must be developed in accordance with the Strategic Planning Methodology, approved by the Government Resolution No. 194 of 2007-02-07. The Methodology requires assessing whether any programme fits with other programmes and whether it is in compliance with other planning documents;

- Pursuant to Article 6 of the Law on Territorial Planning, the development of spatial planning documents must be coordinated with strategic planning documents which are in preparation or applicable in the same area. This Article also requires that the strategic planning documents must be prepared before the start of the spatial planning process or, at least, during the preparation of spatial planning documents. This implies that the legislation gives priority to strategic planning documents in relation to spatial planning documents. Practically this means that preparation of spatial planning documents in a river basin district must be coordinated with the RBMP as a strategic planning document in this area, and the preparation of spatial planning documents cannot start earlier than the preparation of the RBMP.

- It should be noted that no requirements for updating already existing spatial planning documents were identified.
Practically, the status of the RBMP and PoM as binding planning documents in relation to a range of different planning and land use documents is ensured through the coordination of activities of the competent authorities. As mentioned above, the Ministry of Environment, its subordinated Environmental Protection Agency and regional environmental protection departments under the Ministry of Environment are the key institutions responsible for the water use and protection and also for conciliation, of land use, agricultural, other plans and programmes in the field of environmental protection. The conciliation practically means the first step of approval of these plans and programmes. The above mentioned environmental authorities are consulted during development of the plans and programmes and they have the right to reasonably reject those plans and programmes. Thus, they are responsible for ensuring compatibility of these plans with the provisions of RBMP for water related aspects.

The RBMP is binding (obligation of compatibility) in relation to flood risk management:

- Under paragraph 27 of the Resolution No 1558 of the Governmental on Description of Procedures on the Assessment and Management of Flood Risks of 11 November 2009, the flood risk management plans provide measures for achieving the objectives for the management of flood risks. These measures must be selected by taking into account the ‘water protection objectives established by the Law on Water, the requirements of spatial planning documents, land use, soil and water management, nature conservation, navigation and port infrastructure’. The words ‘water protection objectives established by the Law on Water’ mean environmental objectives to be achieved through the RBMPs and PoM.

- Under paragraph 28 of the Resolution No 1558 the flood risk management plans must take into account the characteristics of a particular river basin or sub-basin. Thus, the Resolution No 1558 requires taking into account the RBMPs and PoM in the flood risk management plans.

- Under the Resolution No 1558 the Ministry of Environment is a key institution for preparation and review of the flood risk management plans. It also is responsible for preliminary flood risk assessment and preparation and review of flood hazard maps and flood risk maps. Management of flood risks in each river basin district is administered by a competent authority responsible for administration of river basin districts or their parts lying within the territory of the Republic of Lithuania, i.e., the Environmental Protection Agency under the Ministry of Environment. Thus, the same institution is responsible for both: coordination of implementation of the RBMP and PoM and for administration of a river basin district.

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7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are the Regional Environmental Protection Departments of the Ministry of Environment and The Geological Survey.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

The main authority, issuing permits (usually IPPC) is Regional Environmental Protection Department. These Departments belong to the Ministry of Environment. There are eight of them. Municipalities also need to approve a permit.

All water abstraction, impoundment, pollution discharge and hydromorphological alterations related permits need to be coordinated with the WFD competent authority – the Environmental Protection Agency. There are different divisions in the EPA that review and check permit materials for different users.

7.2 Permit applications

The process for application for a permit is described below.

Permitting requirements are applicable to companies which abstract, consume or supply groundwater and surface water (including for hydro energy purposes). The permits shall specify the water source, water abstraction capacity of the facilities, m³/s, the volume of the water abstracted, presence of water accounting equipment, etc. The permits shall also provide for measures for the rational use and protection of water.

An applicant needs to follow the procedure of the IPPC permit. An Applicant approaches its municipality with the filled questionnaire for the obtaining of the permit. After getting the municipality’s approval the application is submitted to the Regional Environmental Department. Depending on the application, it needs to be coordinated with other related institutions. In the case of, for example, mentioned flood control structure or a dock facility, the application needs to be coordinated with the Environmental Protection Agency (its Water Protection and Hydrographic Net Supervision Division).

Currently the electronic system for application for a permit is under final stage of construction; the pilot version is already on the Internet: http://alis.am.lt/actionNewApplication.action.

Differences for different types of water or scale are detailed below (Table 5).
Table 5: Differences in the permit application process for different water uses

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Permit is needed for those abstracting more than 100 m$^3$/day. But all wellfields abstracting more than 10 m$^3$ of groundwater per day must provide information to the Lithuanian Geological Survey.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>NA</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>Permit is needed when more than 5 m$^3$/day of wastewater is discharged.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>NA</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>No separate permit for a water use is needed for the construction and use of waterworks. No permit is required when a water use does not have a significant impact on the physical, chemical and biological characteristics of a water body. Limits for water use and/or impact above which a permit is required are established by an institution which is empowered by the law to regulate the issuance of permit. A procedure for the use and maintenance of ponds is laid down by the Minister of the Environment who issues respective legal acts. Construction and use of waterworks is subject to a number of measures regulating the regime of water levels, environmental flow, water accounting, management of erosion processes, and fish protection.</td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

7.3 Enforcement of permits: authorities

In Lithuania, eight Regional Environmental Protection Departments (REPDs) under the Ministry of Environment are the main institutions for the enforcement of environmental legislation, including legislation in the water sector. The REPDs have local Environmental Protection Agencies (local EPAs) as subordinated bodies in each town and district (there are 56 local EPAs in Lithuania). REPDs and their local EPAs work together in the field of permitting, inspection, enforcement and public information. The Environmental Protection Agency coordinates the REPDs’ work and provides them methodological guidance.

Regional police and prosecutors’ offices are consulted in complex cases, in particular when bringing criminal charges is under consideration.

As noted above, the REPDs are organised by region, and also have offices (EPAs) in municipalities.
There are no separate authorities responsible for enforcement of different economic sectors.

In general, the REPDs are responsible for enforcement across the main sectors.

The National Payments Agency under the Ministry of Agriculture carries out checks related to direct payments to farmers including controls related to good agricultural and environmental practice (GAEC) and cross-compliance requirements. Regarding agriculture, the REPDs and local divisions of the Ministry of Agriculture exchange information in order to control farms or other agricultural undertakings effectively. Similar practice exists between REPDs and local authorities which are in charge of controlling the use of plant protection substances and preparations.

There are separate authorities responsible for the enforcement of different types of water-related permits. The REPDs are responsible for enforcement across the different types of water permits. The REPDs issues integrated permits which include conditions for protection of air, water, soil, waste management and measures for reduction of noise and odour.

However, the Lithuanian Geological Survey is responsible for permits for abstraction of mineral water.

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities

As noted above, the REPDs are offices under the Ministry of Environment: thus, there is one main authority for enforcement of environmental permits, including water, in Lithuania.

The REPDs, regional police offices and regional prosecutor’s offices have signed trilateral cooperation agreements for consultation and the exchange of information. Consultations with the police and prosecutors help the REPDs to decide whether to initiate administrative or criminal procedures in complex cases. When it is decided to start criminal procedures, the REPDs transmit all materials collected to prosecutors. Practically, the police and prosecutors are rarely involved, except when infringements of the environmental legislation cause significant impact to the environment. There are no special police or prosecutor’s units addressing environment in Lithuania.

As noted above, the REPDs and local divisions of the Ministry of Agriculture exchange information in order to control farms or other agricultural undertakings effectively. Similar practice exists between REPDs and local authorities which are in charge of controlling the use of plant protection substances and preparations.

Close cooperation has been established between REPDs and the National Payments Agency under the Ministry of Agriculture, to support checks whether persons who use EU agricultural support implement properly their obligations in relation to the measures provided in the river basin management plans (RBMPs) and programme of measures (PoMs).

#### 7.4.2 Between enforcement and water management authorities

The enforcement authorities and water management authorities are separate entities. The EPA and the REPDs often communicate on usual working relations, both in meetings.
and via official letters. The EPA coordinates the REPDs’ work. Each month it organises joint meetings with the REPDs. The EPA as river basin management competent authority provides the REPDs information related to river basin management plans and the programmes of measures. On the other hand, REPDs inform the EPA about the existing enforcement problems and measures taken.

7.5 Enforcement actions

7.5.1 Number of inspectors
Currently the Environment Protection State Control Department of the Environmental Protection Agency is summarising the 2011 data. The results are not final. They will be reflected in the annual Environment 2011 Report (Aplinkos būklė. 2011). The EPA plans to publish the Report in September 2012.

Practically, none of the REPDs’ staff work full-time only on water issues. Most of the permitting staff is specialised on two-three media, e.g., water and waste management. Thus, for the information presented here and in the next two sections, the following indicative figures based on work load criteria are used:

- In total 376 specialists are involved in permitting and about 300 of them are involved in the enforcement process
- Roughly ¼ of the staff’s work load relates to the enforcement of water-related parts of the permits. Thus, about 75 (300x1/4) of all the REPDs’ staff may be considered as working full-time in enforcement of water-related permits.

It is estimated that about 60% of the REPD staff’s work load relates to the enforcement of water-related parts of the permits for industry. Thus, an estimated 45 (75x60%) of all REPD staff may be considered as working full-time in enforcement of water-related permits for industry.

About 20% of the staff’s work load relate to the enforcement of water-related parts of the permits for agriculture. Thus, 15 (75x20%) of all the REPD staff may be estimated as working full-time in enforcement of water-related permits for agriculture.

About 20% of the staff’s work load relate to the enforcement of water-related parts of the permits for hydroelectricity, municipal waste water treatment plants, etc. Thus, 15 (75x20%) of all REPD staff may be considered as working full-time in enforcement of water-related permits for other sectors.

7.5.2 Number of inspections
In 2011 the REPDs organised 10,160 on-site inspections in total. About ¼ of them relate to water issues in the integrated permits. Thus, about 2540 inspections relate to water parts of the permits.

The number of water-related inspections for industry is 1540 (2540x60%). The number of unplanned inspections during recent years is decreasing: in 2010, about 30% of all inspections were unplanned, but for water it might be less and reach only about 10 per cent.

The number of water-related inspections for agriculture is 508 (2540x20%).

The number of water-related inspections for other sectors is 508 (2540x20%).
7.5.3 Number of infringement actions
In 2011 there were 948 infringements of environmental legislation related to water sector.

The number of infringement actions related to water parts of the integrated permits for industry was 568 (948x60%) in 2011.

The number of infringement actions related to water parts of the integrated permits for agriculture was 190 (948x20%) in 2011.

The number of infringement actions related to water parts of the integrated permits for other sectors was 190 (948x20%) in 2011.

7.5.4 Other mechanisms (in addition to inspections)
EMAS, especially ISO 14001 become additional mechanisms to inspections. Firstly, when planning frequency on-site inspections, companies that have implemented EMAS or ISO 14001 systems are seen as lower risk economic objects. Secondly, on-site inspections of those companies do not require checking in detail the environmental management mechanisms.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
In most cases when the REPDs find non-compliance with environmental requirements they issue an official warning requiring the operator to meet requirements within a prescribed time. If the offender fails to do this in the specified time period, the REPDs impose administrative penalties themselves or send the documents for the case to prosecutors or the police for further investigation.

Administration sanctions set in legislation

Administrative sanctions for violation of the conditions of the integrated permits are provided in the Code of Administrative Offences (both IPPC facilities and other industrial facilities have integrated permits - these cover water abstractions as well as water discharges). Fines of EUR 290 to 1158 for natural persons, fines of EUR 579 to 2027 for officials, and fines of EUR 869 to 2896 for the head of a legal person may be imposed under Article 51/2 of the Code of Administrative Offences “Operation of economic activities in infringement of environmental requirements’. Gross violation of the Permitting Rules may cause revocation of integrated permit. Revocation of integrated permit in principle means termination of the activity.

In addition, the Code of Administrative Offence provides in its Article 51/6 (“Pollution of the environment by effluents”) for penalties for those persons who commit pollution of the environment by wastewater discharges without permit.

Criminal sanctions set in legislation

Violations of regulations for the environment and natural resources, causing a threat to human life or health or causing substantial damage to water, air, soil, animals or plants can be punished by the Criminal Code. Article 270 of the Criminal Code provides the following sanctions:
Natural persons:
- a fine of up EUR 37,650
- restriction of liberty of 3 to 24 months
- arrest of 15 to 90 days
- imprisonment for a term of up to six years (10 years only under Article 256 related to radioactive materials)

Legal persons:
- a fine of up to EUR 1 882 530,12
- restriction of operation of the legal entity
- liquidation of the legal entity.

Payments for damage

In addition to an administrative or criminal sanction, if environmental damage ensues as a result of non-compliance with the laws, a payment for the harm caused to the natural environment may also be required. Such environmental sanction charges are not criminal or administrative sanctions and can be imposed regardless of intent or negligence, and regardless of whether the offender has been imposed a criminal or administrative sanction. Both natural and legal persons can be imposed environmental sanction charges. These sanctions are imposed pursuant to the Civil Code and the Law on Environmental Charges.

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
Centralised permitting inspection and enforcement systems, based on Ministry of Environment. Old water protection traditions in Lithuania. The long-standing water protection traditions relate to environmental permits during the Soviet era. During Soviet rule in Lithuania (1944-1990), water supply and sewerage were state responsibilities. All industries had to obtain environmental permits. Water permits were first types of environmental permits to be introduced. Permits for protection of air, soil, nature were introduced later.

The EPA has installed internal information system on the internet. It provides information promptly about inspections in all of the REPDs and how the REPDs implement their work plans. This may be considered as supporting the enforcement, thus, as strength.

7.7.2 Weaknesses of the system of inspections and enforcement
Taking in consideration the work load of specialists involved in permitting procedure staff numbers in the REPDs are insufficient. This implies that majority of the staff working with permitting is not specialised in one medium only. Each of them covers at least two or three media. This is a major weakness.

A need for further training can be also considered as weakness, because staff turnover is high in the REPDs.
7.7.3 Influence of the WFD and the RBMPs on enforcement

It is thought that the RBMPs have strengthened enforcement. Various measures have been adopted in the PoM, according to WFD. For example, there are requirements related to agricultural enforcement in the Programme of measures for the Nemunas RBD.

However, the WFD, including the RBMPs, has not essentially changed the enforcement system. The changes have been implemented in order to strengthen cooperation issues and to cover a wide range of measures needed for the implementation of the RBMPs.
8 References

Essential information on river basin management plans is available at
http://vanduo.gamta.lt/cms/index. The main source of information on the legal nature of
RBMP is the Law of the Republic of Lithuania on Water available together with other
legislation at http://www3.lrs.lt/

Telephone conversations with EPA staff: Martynas Pankauskas, River Basin Management
division of the Environmental Status Assessment Department; Gintautas Sabas, Water
Protection and Hydrographic Net Supervision Division of the Environmental Protection
State Control Department.

Civil Code of the Republic of Lithuania (Lietuvos Respublikos civilinis kodeksas),
Valstybės žinios, 2000, No. 74-2262, as last amended by the Law No. XI-1842 of 22

Code of Administrative Offences of the republic of Lithuania (Lietuvos Respublikos
administracinių teisės pažeidimų kodeksas), Valstybės žinios, 1985, No 1-1; 2002, No
112-4972, as last amended on 22 December 2011 by the Law No. XI-1866,

Criminal Code of the Republic of Lithuania (Lietuvos Respublikos baudžiamasis
kodeksas), Valstybės žinios, 2000, No 89-2741, as last amended on 11 February 2010
by the Law No. XI-677,

Governmental Order of 21 July 2010 No. 1098 on the adoption of the Nemunas RBD
Programme of Measures and Management Plan

IPPC rules:
_hil=&p_sess=&p_no=1

Law of the Republic of Lithuania on Environmental Protection (Lietuvos Respublikos
aplinkos apsaugos įstatymas), Valstybės žinios, 1992, No 5-75), as last amended by the
Law XI-858 of 28 May 2010,

Law of the Republic of Lithuania on Water (Lietuvos Respublikos vandens įstatymas),
Valstybės žinios, 1997, No. 104-2615; 2003, No. 36-1544, as last amended by the Law
No. XI-580 of 17 December 2009,

Nemunas RBD Management Plan

Order of the Minister of Environment No 80 of 27 February 2002 (as amended) on the
approval of the Rules on Issuance, Renewal and Cancellation of IPPC Permits

Programmes of Measures of four RBDs in Lithuania

RBDs management plans and related Governmental orders.
Regulation of the Environmental Protection Agency

Rules on Issuance, Renewal and Revocation of Integrated Pollution Prevention and Control Permits (Taršos integruotos prevencijos ir kontrolės leidimų išdavimo, atnaujinimo ir panaikinimo taisyklės), Valstybės žinios, 2002, No 85-3684, as last amended by Order No D1-63 of the Minister of Environment of 25 January 2010 (hereinafter – integrated permitting rules)

http://vanduo.gamta.lt/files/Programm%20of%20Measures%20Nemunas.

Website of the Environmental protection Agency of Lithuania http://gamta.lt/files/aplinka%20tik%20faktai%202010.pdf

Website of the Environmental Protection Agency: http://vanduo.gamta.lt/cms/index?rubricId=736fa93e-ba32-4dbd-b9cc-5ff44c07df2


Website for the new electronic permitting system: http://alis.am.lt/actionNewApplication.action
Member State Governance Fact Sheet: LUXEMBOURG

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry for Home Affairs and the Greater Region</td>
<td>Water Management Agency</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry for Home Affairs and the Greater Region,</td>
<td>Water Management Agency</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Water Management Agency</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Ministry for Home Affairs and the Greater Region</td>
<td>Water Management Agency</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Water Management Agency</td>
<td>Police force, Agency for Customs and Excise, Environment Agency</td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD is Ministère de l'Intérieur et à la Grande Région (Ministry for Home Affairs and the Greater Region). The acting body is the Administration de la gestion de l'eau (Water Management Agency) which is subordinate to the Minister dealing with the coordination of water policy, currently the Minister for Home Affairs and the Greater Region.

There have been no changes in administrative arrangements since the publication of the RBMP.
1.1 Division of responsibilities
The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

In LU only groundwater and surface water bodies (rivers and HMWB) exists. In these two cases the same competent authority is responsible (Administration de la gestion de l’eau).

1.2 Authorities involved in preparing and approving the RBMPs
The authorities involved in preparing and approving the RBMP are Ministère de l’Intérieur et à la Grande Région (Ministry for Home Affairs and the Greater Region) and Administration de la gestion de l’eau (Water Management Agency). A national plan was developed.

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The Water Management Agency is responsible for establishing and implementing surface water (ecological and chemical status) as well as groundwater (quantitative and chemical status) monitoring programmes.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

The Water Management Agency is responsible for all three types of monitoring (surveillance, operational and investigative).

3 Integration
The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies
The responsible authorities for each directive / policy are named in the table below (Table 2).
Table 2 Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Same authority as for WFD. Municipalities (local authorities) and syndicates of municipalities have been involved in stakeholder dialogues and are water service providers.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Same authority as for the WFD and Ministry for Agriculture, Viticulture and Rural Development</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>Same authority as for the WFD</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Same authority as for the WFD and local authorities (municipalities and syndicates of municipalities) have been involved in stakeholder dialogues and are water service providers.</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Same authority as for the WFD</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>Same authority as for the WFD</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Ministère du Développement durable et des Infrastructures (Ministry of Sustainable Development and Infrastructure). (Nature Protection Act, Loi du 19 janvier 2004 - concernant la protection de la nature et des ressources naturelles), river restauration issues are coordinated by the water management agency</td>
</tr>
<tr>
<td>Climate</td>
<td>Ministère du Développement durable et des Infrastructures (Ministry of Sustainable Development and Infrastructure) for mitigation and Ministry for Home Affairs and the Greater Region for adaptation issues related to water.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. This is achieved through bilateral communication.

3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (Table 3).
### Table 3: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Agriculture, Viticulture and Rural Development. Has been involved in RBMP development via round tables and bilateral meetings. Also involved in the implementation (e.g. Rural Development program) and the Nitrates Directive.</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water &amp; Wastewater&lt;br&gt;Same authority as for the WFD</td>
</tr>
<tr>
<td>Energy</td>
<td>Ministry of Economy and Foreign Trade. In the preparation phase of the WFD bilateral discussions on future human developments and impacts on water have been held.</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Sustainable Development and Infrastructure, Transport Department (former Ministry of Transport). Bilateral discussions in the preparation mainly on the treatment of waste water from roads and navigation issues (river continuity of locks).</td>
</tr>
<tr>
<td>Industry IPPC</td>
<td>Ministry of Sustainable Development and Infrastructure, Department of the Environment (former Ministry of Environment). Has been invited to the round tables that have been set up when preparing the RBMP. As no representative attended, bilateral discussions took place. The Permit system is interlinked and the Water Management Agency is competent for fixing best available techniques for water technology.</td>
</tr>
<tr>
<td>Industry Non IPPC</td>
<td>Ministry of Sustainable Development and Infrastructure, Department of the Environment (former Ministry of Environment) Environmental Ministry. Has been invited to the round tables that have been set up when preparing the RBMP. As no representative attended, bilateral discussions took place. The Permit system is interlinked and the Water Management Agency is competent for fixing best available techniques for water technology.</td>
</tr>
<tr>
<td>Mining</td>
<td>Ministry of Sustainable Development and Infrastructure, Department of the Environment (former Ministry of Environment). Has been invited to the round tables that have been set up when preparing the RBMP. As no representative attended, bilateral discussions took place. The Permit system is interlinked and the Water Management Agency is competent for fixing best available techniques for water technology.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The different authorities have been involved via round tables and bilateral meetings.
4 Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation
Article 56 of the 2008 Law on Water sets public consultation requirements that apply to the draft RBMP. It states that any interested person can consult during a time period of six months the draft RBMP at the city halls of municipalities (communes) as well as at the website of the Water Management Agency. Pursuant to this Article, the start of the consultation procedure must be published in four newspapers printed and published in Luxembourg. The public can address, in the six month period, written comments to the draft RBMP either to Mayors who forward them to the Minister of Home Affairs and the Greater Region or directly to the Minister of Home Affairs and the Greater Region. The Minister must take due account of these comments.

In addition to this general public participation procedure, Article 56(4) of the 2008 Law on Water requires the Minister for Home Affairs and the Greater Region to organise an institutionalised public consultation in order to involve the public, within thematic working groups, in the elaboration of the RBMP and to inform the public periodically in plenary sessions of the progress of the work taking place in these working groups. No further details are provided on which stakeholders must participate in these working groups. In practice the Labour Unions and associations involved in the management of water, stakeholders from the agricultural sector, environmental NGOs, and scientific institutes participate in these working groups.

Finally, Article 57 of the 2008 Law on Water states that the Minister for Home Affairs and the Greater Region forwards the draft RBMP to the municipalities which submit their opinion on the draft RBMP and on its potential impacts on their territories to the Minister for Home Affairs and the Greater Region within a time period of 7 months. This Law does not mention that the observations of the municipalities must duly be taken into account by the Minister in the final RBMP.

It should be noted that the Water Management Committee is also requested to submit its opinion on the RBMP. However, no further information is provided in the legislation on this institution. The legislative process regarding the elaboration of a Grand-Ducal Regulation specifying its composition and institutional framework as required under Article 53 of the Law on Water has started but has not yet been finalised.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
The Water Management Agency has been created as a result of the WFD. Until its creation in 2004, the various duties in the field of water management were shared by a total of six ministries, namely the Ministry of Agriculture, Environment, Health, Transport, Home Affairs and Public Works.
5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

![Diagram of organisational structure]

6. Analysis of the nature of RBMPs
6.1 Characterisation of the legal status of the River Basin Management Plan
As mentioned above, the 2008 Law on Water only provides that RBMPs are declared compulsory by Grand-Ducal Regulation. No further details are mentioned in the legislation of Luxembourg on the legal effect of the RBMP.

The 2008 Law on Water\(^{150}\) transposing Directive 2000/60/EC sets the procedure for approval of the RBMP. Article 52 provides that the Water Management Agency\(^{151}\) is in charge of establishing a draft RBMP for each of the two river basins in the Grand Duchy territory. The draft RBMP is submitted to the Water Management Committee\(^{152}\) which is requested to provide its opinion on it (see next question for more details on this institution). The draft RBMP is also subject to public consultation and to consultation of the Municipalities (see next question). The Minister for Home Affairs and the Greater Region\(^{153}\) can also request the Water Management Agency to complete the RBMP with more detailed programmes and management plans dealing with particular aspects of water management. The RBMP is then adopted after deliberation of the Government in Council that must issue a Grand-Ducal Regulation stating that the RBMP is declared compulsory.

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\(^{151}\) Administration de la gestion de l'eau

\(^{152}\) Comité de la gestion de l'eau

\(^{153}\) Ministre de l'intérieur et de la grande Région
6.1.1 Legal effect
Pursuant to Article 52(6) of the 2008 Law on Water, the RBMP must be declared compulsory through a Grand-Ducal Regulation. However this does not mean that the RBMP acquires the legal status of Grand-Ducal Regulation.

In practice, this Grand-Ducal Regulation has not yet been adopted. Even though the legislative process regarding its adoption of this Grand-Ducal Regulation has come to the final steps following the adoption of the draft Grand-Ducal Regulation by the Government on 23 July 2010 and the adoption of the reasoned opinion by the Conseil d’Etat on 17 December 2010.

See above. No further details are mentioned in the legislation except that the RBMP must be declared compulsory by Grand-Ducal Regulation according to Article 52(6) of the 2008 Law on water.

6.1.2 Legal status in relation to individual decisions
It should be noted that the 2008 Law on Water is closely linked to other Grand Ducal laws regulating certain permitting decisions. For instance, pursuant to the Law on Water, certain activities and operations (e.g. mining operations, water discharge) must be authorised by the Minister for Home Affairs and the Greater Region. These activities can however be subject to other authorisation procedures under the Law as modified of June 1999 on classified establishments154 (Law on classified establishments) or the Law as modified of January 2004 concerning the protection of nature and natural resources155 (Law on the protection of nature). In order to avoid administrative burden for operators and overlaps between authorisation procedures, the request for an authorisation under the Law on classified establishments is considered as a request for authorisation under the Law on Water. The Environment Agency (Administration de l’environnement) must thus transmit a copy of the request to the Water Management Agency. Moreover the applicant for an authorisation under the Law on Water for an establishment or activity also requiring an authorisation pursuant to the Law on the protection of nature shall provide a copy of the request to the Water Management Agency that shall send it to the Environment Agency.

Article 71(2) of the 2008 Law on Water contains an explicit provision requiring review of the existing permit/concession in line with the environmental objectives. The 2008 Law on Water provides that RBMPs are declared compulsory by the Grand-Ducal Regulation. Therefore the RBMP is not a policy guidance document since its measures are binding requirements.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

IPPC and other industrial installations
The request for an authorisation under the Law on classified establishments is considered as a request for authorisation under the Law on Water. The Environment

154 La loi modifiée du 10 juin 1999 relative aux établissements classés.
155 La loi modifiée du 19 Janvier 2004 concernant la protection de la nature et des ressources naturelles.
Agency (Administration de l’environnement) must thus transmit a copy of the request to the Water Management Agency.

Furthermore the Law on classified establishments requires the setting of a steering committee (comité d’accompagnement) that must provide its opinion on request of the Minister in charge of the environment on any implementation issues related to this law. This Committee is composed of several representatives of public authorities and other Ministries including a representative of the Water Management Agency.

**Hydropower installations**

Hydropower installations are considered classified establishments falling under the Law on classified establishments as well as under the Law on Water. (See section above)

**Abstraction for agriculture**

Apart from the general provision under Article 23 (a) of the 2008 Law on water requiring an authorisation of the Minister in charge of water management to withdraw surface water and groundwater for all applications, the legislation of Luxembourg does not contain any specific requirements on water abstraction for agriculture.

**6.2 Relationship with other sectoral policy plans**

The legal relationship between the RBMP and other plans is not regulated. The legislation of Luxembourg does not provide information on the relationship between the RBMP and other regulated plans.

There are no basin authorities as such in Luxembourg. The Water Management Agency under the control of the Ministry for Home Affairs and the Greater Region is in charge of the implementation of the RBMP.

The legislation on land use spatial plans refers to the involvement of the Water Management Agency in the preparation and adoption of particular land use spatial plans and projects. It should be noted that pursuant to Article 4 of the Law concerning urban development and municipality planning, a Spatial Planning Commission (Commission d'aménagement) is established to advise the Government on any issues and questions related to urban and municipality planning projects. This commission is assisted by a member of the Government dealing with the management of water. In addition, any new building that is planned to be constructed within a flood risk area needs a water permit as well.

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156 Category 40 of the IPPC nomenclature under the 1999 Grand-Ducal Regulation as modified setting the nomenclature for classified establishments (règlement grand-ducal modifié du 16 juillet 1999 portant nomenclature et classification des établissements classés): Dams and other installations designed to hold water or store it permanently. Dams and other installations designed to hold water or store it permanently when the new volume of water or an extra volume of water held back or stored exceeds 1,000 cubic metres.

157 Loi du 19 juillet 2004 concernant l’aménagement communal et le développement urbain.

158 Règlement grand-ducal du 28 juillet 2011 concernant l’organisation et le fonctionnement de la commission d’aménagement ainsi que l’organisation et le fonctionnement de la cellule d’évaluation.
Furthermore, pursuant to Article 3(13)(e) of Grand-Ducal Regulation of 28 July 2011\textsuperscript{159}, the content of the preparatory study for the general planning of a municipality must take into account the legal requirements from the legislation on the management of water.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are the same as those for WFD implementation.

Article 23 of the 2008 Law on water states that, among others, the following issues are subject to authorisation by the Minister dealing with water management: i) water abstraction from surface water and groundwater, ii) any water abstraction, water treatment or water purification infrastructure and water storage infrastructure intended for human consumption, iii) all works likely to change the water flow regime or to have a harmful influence on aquatic fauna and flora, iv) The direct or indirect discharge of water of any kind in surface water or groundwater, including artificial recharge or raising of groundwater v) The direct or indirect discharge of solid or gaseous substances as well as liquids in surface water and groundwater, vi) the discharge of thermal energy to the surface water and groundwater.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

7.2 Permit applications

The process for application for a permit is described below.

Information regarding the process for application for a permit can be found at the following websites:


http://www.eau.public.lu/formulaires/demande_autorisation/1_demande_autorisation.pdf

The process applies for all water types and scales.

\textsuperscript{159}\textsuperscript{159}Règlement grand-ducal du 28 juillet 2011 concernant le contenu de l’étude préparatoire d’un plan d’aménagement général d’une commune
Regarding permits for abstractions, impoundments, point source discharges and diffuse pollution measures, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

For permits for hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management. The Water Management Agency has the coordinative lead in all hydromorphological measures emphasizing to improve the hydromorphological quality of the rivers including river and wetland restoration.

7.3 Enforcement of permits: authorities

The Water Management Agency (Administration de la gestion de l’eau) is responsible for granting water-related authorisations and enforcing water-related legislation and performing research on water and quality controls of groundwater and surface water, as set out in the law of May 28, 2004 establishing the Agency (Loi du 28 mai 2004 portant création d’une Administration de la gestion de l’eau).

In addition to the staff of the Police who is entitled to do enforcement of the whole legislation of Luxembourg, civil servants of the Water Management Agency who have at least the grade of technical engineer, together with the civil servants of the Agency for customs and excise (Administration des Douanes et des Accises) who have at least the grade of adjunct controller, have powers equivalent to those of the judicial police, including in relation to infringements to the Law on water protection and management of December 19, 2008.

The Environment Agency (Administration de l'environnement) is in charge of controlling the classified installations under the law of June 1999, which include most industrial installations (including IPPC installations) as well as some others (e.g. large livestock raising facilities). The water related requirements to be applied by these classified installation are controlled by the Environment Agency in coordination with the Water Management Agency.

The authorities are not organised by geographic area.

There are separate authorities responsible for enforcement of different economic sectors. IPPC/Industry: As noted above, the Environment Agency is the lead authority for enforcement of IPPC permits and more generally for the permits of classified installations: these are chiefly industrial installations (e.g. IPPC installations), but also include certain others, include large livestock installations. All water related requirements to be applied by classified installations are however dealt with in coordination with the water management administration.

There are no separate authorities responsible for the enforcement of different types of water-related permits. The Water Administration Agency is in charge of controlling the following water authorisations:

- The abstraction of water from surface water and groundwater
- The abstraction of solid or gaseous substances in surface water and groundwater;
- the direct or indirect discharge of water of any kind whatsoever in surface waters or in groundwater, including artificial recharge or augmentation of groundwater;
- the direct or indirect discharge of solids or gases and liquids other than water in surface water and groundwater;
- all works, facilities, structures and facilities in riparian;
- any measures that affect the natural infiltration and all measures of water collection runoff in areas
- any sewerage infrastructure;
- any infrastructure water collection, treatment or water purification and water for storage for human consumption;
- the development and operation of quarries, mines and mining;
- the cutting of vegetation including the uprooting of trees, shrubs and bushes on banks;
- diversions, catchments, changes in banks, the recovery of the bed surface and more generally any work that have an impact on the drainage of water and on the aquatic fauna and flora;
- the planting of coniferous species at a distance less than thirty meters from the edge of streams;
- the removal of thermal energy from surface water and groundwater;
- the discharge of thermal energy to the surface water and groundwater;
- the establishment of a direct connection between surface water and groundwater
- installations, structures, deposits, or work activities within protection zones.

In case these authorisations concern classified installations, the administration of the environment is in charge of controlling them in coordination with the water administration authority which must always be informed.

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities
The coordination mechanism is quite informal even though there is a memorandum of understanding signed by the Directors of both the Environment Agency and the Water Management Agency explaining how the two administrations should coordinate on enforcement. They meet once a week where they exchange information. They are also planning to set up software to streamline the different environmental permitting procedures.

#### 7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are not separate entities.
7.5 Enforcement actions

7.5.1 Number of inspectors
2 FTE and in addition 10 persons involved as experts for preparing parts of the permits (in 2012: 4 FTE + 10 non FTE). All inspectors work on all files, and one additional expert works specifically on permits for agriculture.

7.5.2 Number of inspections
About 200 inspections related to water permits were carried out in 2011. The Water Management Agency does the inspections in relation to either the delivery of permits or with its “pollution team”, which consists of two FTE and in addition on a rolling plan 4 civil servants that assist the FTE pollution team.

Water-related inspections for agriculture are done by the “Unité de contrôle” (Agriculture Technical Services Agency - Administration des services techniques de l’agriculture) and are related to Cross-compliance issues.

The inspectors of the 3 regional branches of the Water Management Agency control all newly delivered permits.

7.5.3 Number of infringement actions
Between 5 to 10 infringement actions are launched per year.

Number of water-related infringement actions for industry: More or less 2 per year.

Number of water-related infringement actions for agriculture: Between 6 and 12 per year.

Number of water-related infringement actions for other sectors: More or less 1 to 2 per year.

7.5.4 Other mechanisms (in addition to inspections)
Several reporting requirements are fixed in permits, all drinking water infrastructure and wastewater infrastructure is subject to an audit (art. 42 and 46 of the Water Act, Loi du 19 décembre 2008 relative à l’eau).

Article 42(2) of the Law of 19 December 2008 on water management provides that operators of drinking water infrastructures must monitor the quality of water for drinking purposes and the result of this monitoring must be submitted to the Administration on Water Management.

Article 46(3) of the Law of 19 December 2008 on water management provides that the operator of wastewater must establish a technical dossier with information on this infrastructure and its conditions of exploitation. This dossier must be communicated to the relevant local authorities and re-examined and up-dated every ten years.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation

Administrative measures:

There are no administrative fines.
The relevant administrative authority can seize or place under sealing devices tools, engines, products materials or substances that can provoke pollutions or that are used in the context of works that infringe the law related to water and its implemented measures.

In case of serious or imminent danger of water pollution, of degradation of water quality, the minister of Interior and of the greater region can take measures of urgency that can lead to the closure of the installation or the suspension of activities and the prohibition of use of certain tools and devices.

In case of violation of the water permits covered by Article 22 of the law related to water

The water management administration can take the following measures:

- Send a letter of formal notice to the operator of an installation setting a specific time period to comply with the water permits
- Suspend, after the issuance of a letter of formal notice all or part of the installation, work, or activity
- Stop the installation, activity, work and seal it in part or totally
- Withdraw the permit if the permit conditions or the new conditions set by the Ministry are not fulfilled all the necessary measures in case of urgency such as the closure of the installation, the prohibition of devices or tools, the suspension of the activity likely to be the cause of the pollution or potential pollution having an impact on the quality of water

**Criminal sanctions:**

The violation of a water-related authorisation is an offence punishable by a fine of EUR 251 up to EUR 750 000 and/or a prison sentence of eight days to six months. In case of a repeat offence within two years of a sentence, these amounts can be doubled. In addition, the offender may have to restore the place to its initial state within one year.

7.6.2 Sanctions normally brought for water violations

No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement

Short communication pathways.

7.7.2 Weaknesses of the system of inspections and enforcement

Lack of human resources.

7.7.3 Influence of the WFD and the RBMPs on enforcement

It is thought that the RBMPs have not strengthened enforcement.
8 References

Information on legislation was retrieved from the official legal data base legilux available at: http://www.legilux.public.lu/ and from the 2010 river basin management plan not yet in force available 24/02/2012 at: http://www.eau.public.lu/actualites/2010/03/plan_de_gestion_fr/1_plan_de_gestion_fr.pdf


http://www.eau.public.lu/actualites/2008/05/2e_seance_pleniere/2e_seance_pleniere.pdf

http://www.eau.public.lu/administration/index.html

http://www.eau.public.lu/administration/presentation.pdf


Government web site on environment: http://www.environnement.public.lu/

Government web site on water: http://www.eau.public.lu/


Loi du 26 novembre 2008 concernant la gestion des déchets de l’industrie extractive.


Personal communication With Lambert Brigitte, Weidenhaupt André, Claude Neuberg

Règlement grand-ducal du 10 mai 2012 portant nouvelles nomenclature et classification des établissements classes.

Study on IPPC enforcement for DG Environment (Milieu Ltd, Provisions on penalties related to legislation on industrial installations, 2011).


Website of the Water Management Administration: http://www.eau.public.lu/administration/missions/index.html

160 Mise en œuvre de la directive-cadre sur l’eau, plan de gestion pour le Grand-Duché de Luxembourg Rapport final Décembre 2009
### 1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities / main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of the Environmental Protection and Regional Development</td>
<td>Latvian Environment, Geology and Meteorology Centre, Latvian State Environmental Service &amp; Regional Environmental Boards</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Latvian Environment, Geology and Meteorology Centre; Minister of the Environmental Protection and Regional Development</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Latvian Environment, Geology and Meteorology Centre; Minister of the Environmental Protection and Regional Development</td>
<td>Latvian Institute of Aquatic Ecology</td>
</tr>
<tr>
<td>Permitting</td>
<td>State Environment Service &amp; Regional Environmental Boards</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>State Environment Service &amp; Regional Environmental Boards, Marine and Inland Waters Administration</td>
<td>State Environment Bureau</td>
</tr>
</tbody>
</table>
The main competent authority (CA) for implementation of the WFD is the Ministry of the Environmental Protection and Regional Development (MoEPRD). Other institutions are in charge of the practical implementation of the requirements of the WFD.

There has been a legal change since the publication of the RBMP. The Ministry of Environmental Protection and Regional Development was set up on 01.01.2011 by merging the Ministries of the Environment and the Ministry of the Region Development and Local Governments. However, in practice it did not change anything for water management.

1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.). They are the Latvian Environment, Geology and Meteorology Centre, Latvian State Environmental Service and their Regional Environmental Boards.

1.2 Authorities involved in preparing and approving the RBMPs

The RBMP is prepared by the Latvian Environment, Geology and Meteorology Centre, State owned Ltd (LEGMC). The LEGMC developed so called full version of the RBMP. Based on that the MoEPRD produced a short version (executive summary) of the RBMP which was approved by the Minister of the Environmental Protection and Regional Development.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

According the Law on Water Management (Article 9, point 4.1), the water monitoring programme is prepared by the LEGMC and also it shall be coordinated by LEGMC Article 9, point 4.3).

The water monitoring programme is a part of the National Environmental Monitoring Programme. The Environmental Monitoring Programme is approved by the Minister of the EPRD. The last programme was approved on 19.11.2010 and is in force until 2014.

Thus, the overall responsibility on the water monitoring programme relies on the MoEPRD. The MoEPRD can request to LEGMC to investigate the failure on reaching the environmental objectives in water bodies, demand to review the water monitoring programme.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.
The Latvian Environment, Geology and Meteorology Centre is responsible for all three types of monitoring (surveillance, operational and investigative).

Different authorities are responsible for monitoring the different water categories, as outlined in the table below (Table 2).

**Table 2: Authorities responsible for monitoring in different water categories**

<table>
<thead>
<tr>
<th>Water category</th>
<th>Responsible authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>Latvian Environment, Geology and Meteorology Centre</td>
</tr>
<tr>
<td>Lakes</td>
<td>Latvian Environment, Geology and Meteorology Centre</td>
</tr>
<tr>
<td>Transitional</td>
<td>Latvian Institute of Aquatic Ecology</td>
</tr>
<tr>
<td>Coastal</td>
<td>Latvian Institute of Aquatic Ecology</td>
</tr>
<tr>
<td>AWBs</td>
<td>Latvian Environment, Geology and Meteorology Centre</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>Latvian Environment, Geology and Meteorology Centre</td>
</tr>
</tbody>
</table>

Because there are different authorities monitoring the different water categories, there is a need for coordination. The Environmental Monitoring Programme is coordinated by the MoEPRD. The monitoring institutions are submitting annual report to the MoEPRD. The programme is reviewed also once per year. For coordination of the Environmental Monitoring Council is set up. The Council also reviews the Environmental Monitoring Programme when changes are proposed. The water monitoring programme is coordinated by the LEGMC. In the development process the LEGMC shall also involve experts on water quality assessment.

### 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

### 3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).
### Table 3: Summary of responsible authorities for different directives and policies

| Directive / Policy                        | Responsible Authority                                           |
|------------------------------------------|******************************************************************|
| Urban Waste Water Treatment Directive    | Ministry of the Environmental Protection and Regional Development (MoEPRD) |
| Nitrates Directive                       | Ministry of Agriculture (MoA) in cooperation with MoEPRD       |
| Bathing Water Directive                  | Ministry of Health                                             |
| Drinking Water Directive                 | Ministry of Health in cooperation with MoEPRD and MoA          |
| Floods Directive                         | Ministry of the Environmental Protection and Regional Development |
| Marine Strategy Framework Directive      | Ministry of the Environmental Protection and Regional Development |
| Habitats Directive                       | Ministry of the Environmental Protection and Regional Development |
| Climate                                  | Ministry of the Environmental Protection and Regional Development |

Because there are different authorities, there is a need for coordination with the main WFD competent authority. Coordination is ensured via Advisory Councils for River Basin Districts which are set up for that purpose. When any new policy planning document or legal act is prepared it is common practice to set up inter-ministerial working groups.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 4).

### Table 4: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Agriculture delegates its representative in the River Basin Advisory Councils. Currently it is a representative of “Real Estate of the Ministry of Agriculture”, Ltd. They are in charge of the state drainage system. During consultation on the draft RBMP, the Ministry was also involved to discuss on the proposed measures.</td>
</tr>
<tr>
<td>Driver / Sector</td>
<td>Responsible Authority</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td><strong>Water</strong></td>
<td><strong>Drinking Water</strong></td>
</tr>
<tr>
<td></td>
<td>Ministry of the Health delegates its representative in the River Basin Advisory Councils. Currently it is a representative of the Regional Department of the Health Inspectorate. The Health Inspectorate is in charge of the control of the public drinking water supply. In 2009, the Ministry of Health commented on draft river basin management plans. Local municipalities shall organise the drinking water supply. Therefore they are also planning the improvements in the drinking water supply. Municipalities are represented in the Advisory Councils as well as were consulted during the preparation of the RBMP.</td>
</tr>
<tr>
<td></td>
<td><strong>Wastewater</strong></td>
</tr>
<tr>
<td></td>
<td>Local municipalities shall organise the sewage collection and waste water treatment system. Therefore they are also planning the improvements in the waste water system. Municipalities are represented in the Advisory Councils as well as were consulted during the preparation of the RBMP.</td>
</tr>
<tr>
<td><strong>Energy</strong></td>
<td>Ministry of Economy is in charge of the energy policy in the country. Currently a representative of Energy Department is member of the Advisory Council. The energy policy is solely planned at national level.</td>
</tr>
<tr>
<td><strong>Transport</strong></td>
<td>Ministry of Transport has not been directly involved RBMP. The individual port authorities were attending the public hearings on the draft RBMP.</td>
</tr>
<tr>
<td><strong>Industry</strong></td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>The Ministry of Economy is in charge of the entrepreneurship. But this sector of the Ministry has not been participating in the RBMP. The State Environmental Service is environmental permitting and controlling authority. It was involved in the preparation of the RBMP and also is in charge of supervision of the implementation.</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>The Ministry of Economy is in charge of the entrepreneurship. But this sector of the ministry has not been participating in the RBMP. The State Environmental Service is environmental permitting and controlling authority. It was involved in the preparation of the RBMP and</td>
</tr>
</tbody>
</table>
Mining

The ministry of the Environmental Protection and Regional Development is in charge of the land use and mining policy and its control. The ministry is the competent authority for WFD. It should be taken into account, that “mining” in Latvia means quarries (there are no underground mines). The State Environmental Service is environmental permitting and controlling authority. It was involved in the preparation of the RBMP and also is in charge of supervision of the implementation.

Because there are different authorities, there is a need for coordination with the main WFD competent authority. When national policies/frameworks for sectors are developed then the MoEPRD (CA for WFD) gives its statement on the policy.

4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation

Legislation provides for the establishment of advisory boards for the co-ordination of measures for the management of each river basin and non-governmental organisations, the personnel of which have to be approved by the Minister of Environment (Article 9(1) WML). Article 5 of the Regulations of the Cabinet of Ministers No.681 “Statute of Water Basin Region Advisory Board” provides that the composition of the advisory board is the following: the board have to consist of a maximum of 18 members:

- one from each of the following Ministry or institution subordinated to that ministry: the Ministry of Economics, the Ministry of Health, the Ministry of Agriculture;
- three members from the Ministry of Environment or from institutions subordinated to the Ministry of Environment;
- six members from the regional development boards in the relevant river basin district;
- and six representatives of societies and foundations acting in the field of environmental protection161 or protecting interests of suppliers of water resources, water managers, as well as interests of land and water owners in the particular region. LEGMC organises once in six years meeting of societies and foundations. In these meetings those members who will participate in the advisory board are nominated by the participants of the meeting.

All of these members need to be approved by the Minister of Environment.

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161 E.g., in the development of RBMP in 2010 the following societies were involved: Baltic Environmental Forum, Environmental Protection Club, Small Hydropower Engineering Association, etc.
The board co-ordinates the interests of ministries, other institutions, local governments and non-governmental organisations regarding the achievement of the objectives of the environmental quality and use of water in the relevant river basin district. The coordination process includes: obtaining information and opinions from relevant state institutions, local governments, NGOs; creating working groups (teams) in order to analyse relevant water protection and other issues and to elaborate proposals; inviting independent experts for assessments regarding issues relevant for the preparation of the plan and programme. The board also examines the RBMP and PoM, and assesses the proposals regarding the financial resources necessary for the implementation of plans and programmes (Article 9(2) WML). These proposals are discussed in the meetings of the board and, if accepted, included in the plan.

Article 18(3) provides that LEGMC also has to ensure public access to the RBMP and public participation. See Regulations of the Cabinet of Ministers No. 646 “Regulations on river basin management plans and programmes of measures”.

Pursuant to Article 9(5) WML the State Environmental Service supervises the implementation of the PoM. The State Environmental Service (SES) is a State institution under the supervision of the Ministry of the Environmental Protection and Regional Development. SES’s functions and tasks are to issue the permits (licenses), the technical requirements and other administrative acts concerning the utilisation of the natural resources and the performance of the polluting activities; to inform society about the activities of the service and give society the disposable information about the environment.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

New authorities have been created as a result of the WFD. When the new Law on Water Management was adopted on 12.09.2002 separate four river basin authorities as regional structures of the State Geology Service were envisaged to be set up. Even when first amendments of the Law on Water Management were adopted for establishment of a new merged authority called Latvian Environment, Geology and Meteorology Centre in 2005, the regional structures for river basin management were still foreseen. The provision on regional structures was eliminated by amendment of the Law on Water Management in 2007.

Since January 2004, a water unit in the Latvian Environment, Geology and meteorology Centre has been established for implementation of the requirements of the WFD. The water unit was in charge for preparation of four river basin management plans. Since 2005, a Water Resources Unit is established also in the MEPRD. The WFD is only one of the topics within its responsibility.

The State Environment Service shall supervise the implementation of the programme of measures and reviews the conditions of the permits according the legal provisions.

The changes were made to allocate certain human resources for the implementation of the WFD, otherwise it would not be possible.
5.2 Organisation structure
The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

There is no general provision in the national legislation that administrative acts or decisions must be compatible with the provisions of RBMP. The relevant legislation only provides that RBMP may be taken into account when developing the territorial planning of the relevant region or local government or amendments thereto (Article 18(4) WML). This is just an option. However, as RBMP are approved by the Minister of Environment, they are binding to all institutions subordinated to the Ministry of Environment and have to be taken into account when adopting internal legal acts.

According to Article 9(4)(5) of Water Management Law (WML), the Latvian Environment, Geology, and Meteorology Centre (LEGMC) is the state authority responsible for the development and updating of the RBMP and PoM. Article 20(1) of the WML provides that PoM have to be included in every RBMP.

After LEGMC has developed the RBMP, the Minister of Environmental Protection and Regional Development (Minister of Environment) has to approve a management plan for each river basin district (Article 19(1) WML). The Minister issues an order to approve the RBMP.

6.1.1 Legal effect

River basin management plans developed by LEGMC and approved by the Minister of Environment are mid-term policy planning documents. As these plans are approved by the Minister of Environment, they are binding to all institutions subordinated to the relevant Ministry. Policy planning documents approved by the Cabinet of Ministers or the Parliament of the Republic of Latvia would be of higher hierarchical status. In comparison with long-term policy planning documents, RBMP are of lower hierarchical status. Moreover, the plans could not be contrary to legal acts (laws, regulations).

As RBMP are approved by the Minister of Environment, they have a binding effect on every state institution subordinated to the Ministry of Environment. However, the plans are not binding to individuals, which means that it is not possible to refer only to the RBMP in order to adopt administrative acts (decisions issued by state institutions regarding individuals). Any reference to the RBMP in such decisions would be only informative, not legal. However, the RBMP is binding on the administration in performing their tasks and functions.

6.1.2 Legal status in relation to individual decisions

The State Environmental Service shall supervise the implementation of the programme of measures and review the conditions of the issued permits, taking into account the analysis performed by and the proposals made by the LEGMC (Article 9(5) WML) in relation to RBMP and PoM. This is a general provision providing that permits may be reviewed on the basis of programme of measures and if the SES considers it necessary. As the PoM according to the national legislation is included in the RBMP, this part of

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162 E.g., the highest long-term policy planning document at national level is the Sustainable Development Strategy of Latvia 2030, approved by Parliament; in the field of environment then follows the Environmental Policy Strategy 2009 – 2015, approved by the Cabinet of Ministers
RBMP becomes binding on permitting decisions. However, requirements concerning particular permits have to be observed. Thus, the relevant legislation providing conditions for obtaining and reviewing the specific type of permits has to be examined (see below).

The Law on Pollution provides that permits regarding A and B polluting activities\(^\text{163}\) have to include environmental objectives for the relevant territory or measures according to RBMP and time-limit of implementation (Article 31(3) of Law on Pollution). There is no, however, explicit provision requiring to review the existing permits in line with environmental objectives.

Regulations of the Cabinet of Minister No. 736 Regarding a Permit for the Use of Water Resources provide that the permit has to include conditions which ensure the achievement of particular environmental quality objectives in the particular water body (Article 22). According to Article 23 of these Regulations, it is possible to review the conditions specified in a permit if they do not ensure the fulfilment of the requirements specified in Article 22. Article 22 additionally states that the objectives have to be included in the permit conditions in accordance with Section V. Pursuant to Section V (Article 33), the conditions for the use of water resources to be included in the permit shall take into account, among others, the water quality objectives, which are the “environmental quality objectives’ as per the Water Framework Directive.

Overall, the state institution may refer to RBMP in their decisions regarding individual (permitting) decisions if such requirement is provided in law (as in cases mentioned above). If, however, legislation does not require it to take into account the RBMP (environmental objectives), the administrative decision (including permits or review of existing permits) must not be based only on the RBMP.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

The hydropower permit is granted by the regional environmental board of the State Environmental Service according to Regulations of the Cabinet of Minister No. 736 Regarding a Permit for the Use of Water Resources. No explicit requirement to take into account the RBMP is provided for hydropower installation in these Regulations. However, Article 22 of these Regulations contains a general provision that the permit (any) has to include conditions which ensure the achievement of particular environmental quality objectives in the particular water body. There is no specific reference to hydropower installations. Therefore, the application of RBMP (environmental objectives) is not clear and apparent in case of hydropower installations. However, it should be noted that the Law on Water Management sets that:

\(^{163}\) Polluting activities are classified into categories A, B, and C, considering the quantity and effect or the risk of pollution caused to human health and the environment. The polluting activities of category A are those provided by Annex I of Directive 2008/1/EC. Categories B and C are characterised by the Law on Pollution and Regulation of the Cabinet of Ministers No. 1082 “Procedure on Polluting Activities of Category A, B and C and issuing Permits for the Performance of Category A and B Polluting Activities”. In order to initiate or continue an activity of category A or B or in the case of a significant change, an operator shall receive a permit – a written decision issued by a regional environmental board.
(1) Upon performance of an environmental impact assessment or issuance of new technical provisions, the State Environmental Monitoring Bureau or a regional environmental board shall ban such activities for which the achievement of the environmental quality objectives specified in accordance with this Law or implementation of the measures specified in the management plan is impossible.

(2) Upon the issuance of permits specified in regulatory enactments for activities related to the use of water resources or extension of the period of validity thereof, regional environmental boards shall take into account the environmental quality objectives specified for the particular territory or the measures specified in the management plan and the deadlines for implementing them.

(3) In issuing a permit for the operations of hydro-technical structures, the regional environmental board shall include in the conditions thereof a requirement to perform necessary fish resources protection measures, including the opening of sluices or ensuring construction of a fish pass in the dam of the water body if the relevant measures are necessary biologically well-founded in accordance with the opinion of a fisheries expert-examination, as well as engineering-technically possible in accordance with opinions provided by a specialist who has acquired a hydro-technical qualification with experience in the operation of hydro-technical structures and persons who in accordance with the Construction Law have the right to perform the design of hydro-technical structures.

Besides, Article 40 of the Regulations No 736 requires that when developing the permit conditions for the operation of hydropower installation, the Regional Environmental Board shall take into account necessity to ensure the minimum flow rate within the limits of natural flow capacities of the watercourse and the ecological flow rate. These would be reflected in the environmental objectives and, hence, constitute an indirect reference.

**Abstraction for agriculture**

Agricultural users are regarded and permitted as any other water users, however, with some restrictions. According to Article 2 of Regulations of the Cabinet of Minister No. 736 Regarding a Permit for the Use of Water Resources, a permit is necessary for the abstraction of surface water or groundwater, if one of the following criteria shall apply:

- 10 m³ or more of surface water or groundwater is abstracted per day;
- more than 50 natural persons are provided with water supply services;
- mineral water or thermal waters are abstracted and used in economic activities;
- the abstraction of water resources may cause a significant effect on the environment.

**IPPC and other industrial installations**

The Law on Pollution provides that permits regarding A and B polluting activities have to include environmental objectives for the relevant territory or measures according to RBMP and time-limit of implementation (Article 31(3) of Law on Pollution). There is no, however, explicit provision requiring to review the existing permits in line with environmental objectives. As explained above, the state institutions may refer to RBMP in their decisions regarding permits only in cases provided by law.
6.2 Relationship with other sectoral policy plans
The relevant national legislation (Water Management Law) does not regulate legal relationships between the RBMP and other planning documents. No law explicitly mentions the relationship between the RBMP and other planning documents.

The National Programme of Flood Risk Assessment and Management for 2008-2015 (NPFRA) developed by the Ministry of Environment is the policy planning document in which reference to the WFD is included. The National Programme is of higher hierarchy of political planning documents as it was approved by the Cabinet of Ministers. Thus, this programme is binding to all state institutions, including LEGMC and the Ministry of Environment. Moreover, the RBMP was developed "inter alia" on the basis of the NPFRA.

Regulations of the Cabinet No. 1354 “Regulations on preliminary flood risk assessment, flood maps and flood risk management plan” provide that environmental objectives stated in the RBMP have to be taken into account when developing flood risk management plans (Article 10).

The Ministry of Environment is also responsible for the supervision of development of regional spatial plans and thus has to take into account all planning documents which are binding to the Ministry, including RBMP.

7 Enforcement, control, inspection and sanction systems
The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits
The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

Permits (licences) are not coordinated by the main WFD competent authority.

The State Environment Service and their Regional Environmental Boards (8 REB) are in charge of permitting.

There is an inventory of permits (licences).

Water use permits or A and B category permits for polluting operations (integrated permits) are issued by the Regional Environmental Boards of the State Environment Service.

The water use permits are needed in the following cases:

- for surface and ground water abstraction if volume is larger than 10m³/day;
- water is supplied for more than 50 persons;
- mineral or thermal waters are abstracted for commercial purpose;
- abstraction of water resources might cause significant impact on environment;
- hydraulic structures/ waterworks including constructions for hydropower stations if structures are used for commercial purpose and they are needed to regulate the water flow;
- water injection for increasing groundwater table including artificial replenishment of groundwater stocks;
- for impoundments larger than 0,1 ha and they are regularly supplied by surface waters;
- other activities which are causing the regular change in level, flow regime or quality of surface water or groundwater.

An A or B category permit for polluting activity is needed. A category complies with the requirements of IPPC Directive and they are listed in the Law on Pollution. B category for polluting activities is listed in the Regulation of Cabinet of Ministers. A and B category permits are needed for point source polluting activities.

Diffuse pollution is not permitted, but the requirements for prevention of diffuse pollution from nitrates are given by the Regulation of the Cabinet of Ministers.

The same authorities are responsible for permitting for all water uses (abstraction, impoundments, point source discharges and hydromorphological alterations).

**7.2 Permit applications**

The process for application for a permit is described below.

For water use activities (as listed above) the procedure is as follows:

1) the applicant submit the completed application form to the Regional Environmental Board not later than 60 days before the start of the planned activity;

2) The Board has a right to request the information on the surface and ground water quality in the respective water body;

3) In case any requested information in the application is missing, the Board send the request to the applicant the need for additional information within 15 days.

4) The applicant shall submit the information within 15 days, otherwise the Board takes the decision on rejecting the permit.

5) The Board sends the copy of the application for water use to the respective local municipality within 7 days; in case of abstraction of drinking or mineral water the copy is sent to the Health Inspectorate.

6) The full application form is available for any interested stakeholder at the Board;

7) The proposals and conditions for the application shall be submitted to the Baord within 15 days after receiving the copy of the application.

8) The Board issues the permit within 60 days from receiving application or within 30 days sends the rejection for the permit.

9) In case the EIA is needed the permit is issued only after the EIA procedure and receiving the positive statement from local municipality or respective competent authority.
10) The Board sets conditions in the permit which ensure the protection of surface and groundwater from pollution and overexploitation as well as achieving the environmental objectives in the respective water body;

11) The permit is issued in two copies – one for the applicant and one stays in the REB.

12) A permit or decision on rejection to issue the permit is sent to the local municipality, health inspectorate and other stakeholders who gave the proposals for the application forms by the Board within 3 days.

13) The permit or the decision to reject decision can be appealed in the State Environmental Bureau.

14) The Bureau reviews the condition for the permit or the decision on rejection of the permit and may request the Board to change the permit or decision.

The process varies for different water uses, as outlined in the table below (Table 5).

**Table 5: Differences in the permit application process for different water uses**

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>The difference is whether it is IPPC type of permit or water use permit. IPPC type permit means that the operator, besides the water abstraction, carries out also a polluting activity and therefore there are conditions for discharges, emissions, waste disposal etc. Water use permit lays down conditions for the abstraction only.</td>
</tr>
<tr>
<td>Impoundments</td>
<td></td>
</tr>
<tr>
<td>Point source discharges</td>
<td>The difference is whether it is IPPC type of permit or other category.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>There is no permitting procedure for diffuse pollution. The requirements are set by the legislations.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td></td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

**7.3 Enforcement of permits: authorities**

Inspection is carried out by the State Environment Service, and in particular by the following units of the Service: the eight Regional Environmental Boards (Reģionālās vides pārvaldes, RVP), and the Marine and Inland Waters Administration (Jūras un iekšējo ūdeņu pārvalde, JIŪP).
The State Environment Bureau (Vides Pārraudzības Valsts Birojs) examines any complaints regarding the decisions of Regional Environmental Boards relating to the issuance of permits and permit conditions, the investigation of polluted or potentially polluted sites, and the allocation of remediation and investigation or remediation expenditures.

The eight Regional Environmental Boards play a leading role in enforcement. However, these are offices of a national body.

There are no separate authorities responsible for enforcement of different economic sectors. The State Environmental Service, and in particular the Regional Environmental Boards, are responsible for enforcement of IPPC facilities. More generally, the Service is responsible for the enforcement of water-related permits across all sectors.

There are no separate authorities responsible for the enforcement of different types of water-related permits. The State Environmental Service is responsible for the enforcement for all water-related permits.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
There is one enforcement authority for water permits — the State Environment Service and its structures.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are separate entities.

Overview
The Ministry of Environmental Protection and Regional Development is the main water management authority in Latvia (through the environment protection department: the water resource unit and the pollution prevention and waste unit). The State Environment Service and the Environment State Bureau are institutions supervised by the Ministry.

Coordination of work
One of the tasks of the Ministry is to develop laws and regulations. If a new law or new regulations are being developed related to permitting or other tasks of the SES, representatives from the SES are involved in the working group to share their insights and expertise, to provide their suggestions. When a new law of regulation comes into force, the Ministry takes part in various SES activities and meetings to explain and introduce the changes. Sometimes the Ministry itself organizes such meetings or seminars. These activities also take place on the regional (local) level.

Another mechanism of cooperation is through the SES “permit board”, where the parties (representatives of the SES and all regional environmental boards) meet to discuss new norms and exchange experiences. Representatives from the Ministry are invited to attend, especially, if new legal requirements related to the permitting are adopted recently.

For information purposes, representatives from SES can also attend the weekly meetings in the Ministry. This usually takes place if there is a pressing issue or if the themes of discussion are particularly relevant to the SES.
There is also a “water resources and technologies board” that is called together upon necessity. The initiative for calling the board together can come from various parties—from residents, regional structures, the SES or the Ministry.

Also day-to-day contacts between the Ministry, SES and the regional boards can take place as needed. If there is a question where the Ministry should get involved, they are informed by the relevant regional authority. The Ministry asks for information from the SES when necessary.

7.5 Enforcement actions

7.5.1 Number of inspectors

In 2010 (also in 2011) there were a total of 93 inspectors employed by the State Environment Service. There is no sectoral breakdown available. The inspectors carry out inspections for all environmental requirements altogether (such as air, water, waste etc.).

Currently (in 2012) there are 39 inspectors in the Marine and Inland Waters Administration subordinated to the State Environment Service. However, a large part of these inspectors are working with the fish resources control only.

There are also 53 environmental inspectors in the Regional Environmental Boards. They are not controlling exclusively water-related matters. It is a common practice, that the director and deputy-director of the Regional Environmental Boards and the head of their Control Units have right to carry out inspections. However, this is not their main duty.

Due to budget cuts the number of inspectors declined from 2009 to 2010.

7.5.2 Number of inspections

In 2010, the State Environment Service carried out a total of 19,760 inspections across all the areas of its competence (related to manufacturing enterprises, nature reserves, the use of natural resource and fisheries, and radiation). In 2010, 52 inspections were carried out regarding groundwater abstraction.

In its report on activities in 2010, the SES stated that they have carried out 117 inspections of compliance with the water resources use and protection legislation, 56 inspections of compliance with protection requirements within the protective zones around/along surface water bodies, 143 inspections of Hydroelectric Power Plants, 25 inspections of wastewater collection and treatment, 54 inspections of water resources use and 10 inspections of wastewater collection and treatment in category C installations, 145 inspections of water resources use and 135 inspections of wastewater collection and treatment in category B installations, 5 inspections of water resources use and 1 inspection of wastewater collection and treatment in category A (IPPC) installations (there were 91 integrated inspections in category A (IPPC) installations; they might include also water-related issues).

In 2010, a total of 190 inspections were carried out for the holders of Category A (IPPC) pollution permits. In addition, 2381 inspections were carried out for the holders of Category B pollution permits; this category can include agricultural enterprises as well as industry.
As noted above, in 2010, 2381 inspections were carried out for the holders of Category B pollution permits; this category can include agricultural enterprises. Separate information on inspections of agricultural enterprises was not found.

According to the SES statistical report 2010, there were 16 inspections of A-category livestock raising activities, 72 inspections of C-category livestock raising activities (Category-B polluting activities do not include farms or other agricultural installations, except for slaughterhouses). However, some water and agriculture related inspections may be also included in the other categories identified in the statistical report.

In 2010, a total of 162 inspections were carried out of hydroelectric plants: 154 of them planned and 8 based on complaints. (Latvia has a total of 154 hydroelectric plants registered: 151 of them are small, i.e. with a projected power of <2MW.) The inspections covered various aspects of the plants; however, in at least one case, water-related issues were the subject of inspection (specifically, incorrect data on water flows through the plant).

### 7.5.3 Number of infringement actions

As a result of the inspections listed above (across all areas of the State Environment Service’s work), a total of 1650 natural or legal persons were held administratively liable in 2010. Of these, 409 natural or legal persons were held liable as a result of inspections carried out by the Regional Environmental Boards, and 1229 from inspections carried out by the Board for the Sea and Internal Waters.

According to the SES statistical report, there were 8 cases in 2010 when fines were imposed because of breach of water resources use and protection legislation, 2 cases when fines were imposed for inappropriate operation of treatment plants. However, there are many more cases when fines were imposed for breach of permit conditions, which may also include water-related conditions.

According to an SES representative, there were a further 9 cases in 2011 for breach of water resources use and protection legislation.

In the inspections of hydroelectric plants, 47 decrees were issued in 2010, where the possessors of the plants had to correct deficiencies in both operations and documentation.

### 7.5.4 Other mechanisms (in addition to inspections)

All water users are required to submit data on the amounts of water abstraction and emissions of wastewater for the State Statistic Report annually. These reports are submitted to the Regional Environmental Boards and the summary information is collected in the data base maintained by the Latvian Environment, geology and Meteorology Centre.

### 7.6 Types of administrative and criminal sanctions

#### 7.6.1 Sanctions established in national legislation

Both administrative and criminal sanctions can be brought. Legislation (The Latvian Administrative Violations Code) provides a detailed list of administrative sanctions, in particular fines.
For the violation of water rights: in the case of open or hidden arbitrary occupying of water bodies, arbitrary use of water, the retransfer of water use rights, as well as other transactions, which violate water property rights – a fine up to LVL 250 (EUR 360) shall be imposed (Article 48, of the Administrative Violations Code). (Note that all fines are expressed in LVL. €1=LVL 0.70)

In the case of violation of the water resource protection regime in water catchment areas, causing pollution thereof, soil erosion, changes in the water body bed and banks, changes in the water body normal water level, or other harmful phenomena, which cause degradation of the fertility or quality of the top soil – a fine in an amount from LVL 150 (EUR 215) and up to LVL 500 (EUR 720) shall be imposed on natural persons, but for legal persons – from LVL 300 (EUR 430) and up to LVL 1000 (EUR 1440) (Article 60 of the Administrative Violations Code).

In the case of the violation of surface water and groundwater protection or use regulations or requirements – a fine shall be imposed on natural persons from LVL 40 (EUR 58) and up to LVL 1000 (EUR 1440), but for legal persons – from LVL 100 (EUR 144) and up to LVL 2000 (EUR 2880). In the case of surface water or groundwater resource usage without the necessary water resource use permit or violation of the conditions of the permit – a fine shall be imposed on natural persons or legal persons from LVL 20 (EUR 29) and up to LVL 250 (EUR 360) (Article 62 of the Administrative Violations Code).

In the case of an arbitrary installation of an artesian borehole or violation of the water supply regulations – a fine shall be imposed from LVL 50 (EUR 72) and up to LVL 500 (EUR 720) on natural persons, but for legal persons – from LVL 100 (EUR 144) and up to LVL 1000 (EUR 1440) (Article 63 of the Administrative Violations Code).

In the case of the performance of arbitrary hydrotechnical or other activities in water bodies or water course protection zones; violation of conditions of the regulations of small hydropower stations, regulations regarding operation and water resource use permit; violation of the regulations related to the operation of water management structures, installations or water bodies or the safety programmes of hydrotechnical structures – a fine shall be imposed from LVL 250 (EUR 360) and up to LVL 500 (EUR 720) on natural persons, but for legal persons – from LVL 250 (EUR 360) and up to LVL 1000 (EUR 1440) (Article 64 of the Administrative Violations Code).

Further administrative sanctions are set for pollution violations. Fines for pollution range from LVL 50 (EUR 72) and up to LVL 250 (EUR 360) for natural persons, and for legal persons from LVL 250 (EUR 360) and up to LVL 2000; for pollution that exceeds the permit limits, the fine is LVL 50 (EUR 72) to LVL 250 (EUR 360) for natural persons, and for legal persons, from LVL 100 (EUR 144) and up to LVL 1000 (EUR 1440). Separate fines are set for Category A, B and C activities, such as industrial facilities.

Regarding criminal sanctions: under Article 102(2) Criminal Law, For a person who commits pollution with dangerous or other substances, materials or wastes, littering or otherwise harmfully affecting the earth, forests, or internal waters (surface water or groundwater) in any way, if substantial harm is caused thereby to the environment, property, or economic interests, the applicable punishment is imprisonment for a term not exceeding four years or custodial service, or a fine not exceeding two hundred times the minimum monthly wage.
For the unauthorised disposal of dangerous substances in waters and depths of the earth (Article 100(1) Criminal Law): The applicable punishment is imprisonment for a term not exceeding four years, or custodial arrest, or community service, or a fine not exceeding one hundred times the minimum monthly wage.

In Latvia, only natural persons are criminally liable. However, where the criminal offence has been done for the benefit and interests of a legal person, coercive measures may be imposed on that legal person (Article 12(2) of the Criminal Law).

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
A major strength is the network of regional structures. It means that the same inspectors work in the same localities continuously and know the local situation and businesses very well. This also enables a quicker reaction in the case of complaints/reports of offences or accidents.

For the last few years the SES also trains and attests so called public inspectors - volunteers that assist the state environmental inspectors in the control of poaching. There were 135 such public inspectors in 2011. The public inspectors are only involved with inspections of fisheries resources (against poaching); they are nonetheless very important in the overall inspection system, especially after 2008, when, because of the economic crisis, there was a significant state budgetary cut. Public inspectors are not involved in the inspection of water permits because they do not have adequate training (specific education and skills).

7.7.2 Weaknesses of the system of inspections and enforcement
1. The weaknesses of the system are to a large extent due to constraints in capacity. Since the budgetary cuts in 2008, the SES employees have had a very high work load. There is also a great need for more frequent discussions and for raising staff qualifications, to be able to perform work that is up to date with new enterprises that use new technologies.

2. There is a necessity to upgrade existing electronic systems. This should be possible within a project that is being started this year. It will enable a common permit registry across the SES and its regional structures and will allow for amendments to permits to be done online and will enable electronic submission of documents.

3. A further problem the Ministry is currently facing is incompatibility of databases across the Ministry, the SES and other institutions from other sectors relevant to permits. For instance, the natural resources tax for water abstraction and discharge of pollution is being paid to the State Revenue Service (SRS), but the annual statistical report on water abstraction and discharges of pollutants is submitted to the institution under the Ministry through the submission of an electronic form. If there is an error during a data input, the Ministry receives information that creates a statistical misalignment—the data needs to be
meticulously checked. Also, the Ministry cannot compare data uploaded in their system with the data received by SRS. Most often this misalignment is due to simple negligence errors, not from deliberate tax evasion. It is difficult to say when this incompatibility issue might be resolved.

In addition, there are two areas, where there are problems with fulfilling the conditions of permits.

1) The State Environment Service points out that there are some long-standing problems with groundwater pollution resulting from waste treatment and disposal (from existing treatment plants and landfills).

2) The Ministry of Environmental Protection and Regional Development highlights that there is a number of large farms (in Latvian classification these are Category A; according to the EU classification these are IPPC farms according to the IPPC Directive 2008/1/EC), where there are problems with complying with conditions. Most problems are due to failure to comply with requirements for manure storage facilities, because the upgrading and construction of these requires substantial investments to ensure that manure storages are built according to the EU principles for best available techniques. Some of the big farms were not able to fulfil all the new requirements, even though a transition period was given for this purpose. There are no such difficulties regarding farms that have been built after the year 2000, because specific regulations were already in place at the time of construction.

7.7.3 Influence of the WFD and the RBMPs on enforcement

It is thought that the RBMPs have strengthened enforcement. On the one hand, WFD implementation has strengthened the enforcement via additional personnel and experts involvement, via summarised overview of the status of Latvian waters and identification of the main pressures and problem areas, provided by river basin management plans. Also, involvement of other sectors and stakeholders via consultative boards ensured wider awareness about the needs and proposals for water status improvements.

The RBMPs have helped identify water bodies where the water bodies are under risk of not achieving good status. Consequently this has led to the development of Cabinet of Ministers regulation on water bodies under risk. According to these regulations, permits issued for activities within these water bodies might be reviewed and permit conditions on emissions and monitoring may be updated and subject to stricter controls. This has had an overall beneficial impact on the state of the surface water bodies. On the other hand, to ensure WFD implementations the enforcing authorities were given additional tasks, which should be implemented in spite of the fact that due to economic crisis both human and financial resources available were reduced.

Overall, the impact has not been substantial, because the permit system was in place already before the WFD. The same applies to the River Basin Management Plans — the integrated permits were granted already before.
8 References


The Criminal Law (Krimināllikums), adopted on 17 June 1998, enacted on 1 April 1999; relevant amendments on 21 October 2010, enacted on 1 January 2011.

Interview with Andris Roska, Supervisory Control Division, Monitoring Service State Environment Service (12 July 2012)

Interview with Iveta Teibe, Water Resources Division, Department of Environmental Protection, Ministry of Environmental Protection and Regional Development (5 July 2012)


The Law on Water Management (article 26) states that MoEPRD is in charge of the implementation of the requirements set by the Law.

Law on Water Management, Article 9.

Law on Water Management, Article 9, point 4.5. on preparation of RBMP

Law on Water Management, Article 15, point 1 on approval of RBMP

Regulations of the Cabinet of Ministers No 92 “Requirements for monitoring and development of monitoring programme for surface waters, ground water and protected areas” (in force since 26.02.2004).

The regulations of the Cabinet of the Ministers No 681 on “Statutes of the Advisory councils of the River Basin Districts” (enforce since 01.01.2004)

SES, Statistics (includes various reports, information available in Latvian only): http://www.vvd.gov.lv/lv/publikacijas-un-statistika/statistikas-dati

State Environment Service (Valsts vides dienests), http://www.vvd.gov.lv/lv/atlaujas-un-licences dabas-resursu-izmantoanas/udens-resursu-lietosanas-atlaujas; State Environment Bureau (Vides pārraudzības valsts birojs),

See also:  
http://www.vvd.gov.lv/lv/strukturvienibas/centralas-strukturvienibas/darbinieki

http://www.vpvb.gov.lv/lv/piesarnojums

Water information system:  http://vdc2.vdc.lv:8998/udens.html  (in Latvian only)

Web site of the Ministry of Environmental Protection and Regional Development;  
http://www.varam.gov.lv/eng/par_ministriju/padotas_institucijas/
1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Malta Resources Authority, Malta Environment and Planning Authority</td>
<td>Inter-Ministerial Committee on Water</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Malta Resources Authority, Malta Environment and Planning Authority</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Malta Resources Authority, Malta Environment and Planning Authority</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Malta Resources Authority, Malta Environment and Planning Authority, Ministry of Resources and Rural Affairs</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Water Services Corporation, Malta Environment and Planning Authority, Malta Resources Authority, Directorate for Environmental Health</td>
<td></td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.
The Malta Resources Authority (MRA) is the Competent Authority in Malta for groundwater and inland waters; the exceptions are "inland surface waters protected under the Development Planning Act or the Environment Protection Act". These protected inland surface waters are placed under the competency of the Malta Environment and Planning Authority (MEPA) which is also responsible for coastal waters. In short: - Malta Resources Authority (MRA): groundwater and non-protected inland waters. - Malta Environment and Planning Authority (MEPA): coastal waters and inland protected water bodies.

After the publication of the RBMP, an "Inter-Ministerial Committee on Water" and several sub-committees were created, with the main role of overseeing the implementation of the plan; the organisation of the already existing administrative bodies was not changed.

1.1 Division of responsibilities
There are different authorities responsible for implementing the requirements of the directive for different water categories (groundwater, lakes, rivers, transitional etc.). The Malta Resources Authority (MRA) is the Competent Authority for groundwater and inland waters; the exceptions are "inland surface waters protected under the Development Planning Act or the Environment Protection Act". These protected inland surface waters are placed under the competency of the Malta Environment and Planning Authority (MEPA) which is also responsible for coastal waters. It has to be noted, however, that in the first management cycle, the Maltese authorities did designate any inland surface waters. In the First RBMP, only groundwater and coastal water bodies are considered.

There is no detailed information regarding formalised interactions in the assessed sources; the MEPA reports to the Prime Minister´s Office (PMO), whereas MRA is part of the Ministry of Resources and Rural Affairs (MRRA); the two authorities, however, participate in the Inter-Ministerial Committee on Water (lead by MRA and MRRA), which meets regularly. It can be assumed that any necessary coordination can take place via this body.

Authorities responsible for implementing the requirements of the directive for the different water categories are shown below (Table 2).

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>Malta Resources Authority (MRA); if protected rivers are concerned, the Malta Environment and Planning Authority (MEPA) is the competent authority.</td>
</tr>
<tr>
<td>Lakes</td>
<td>Malta Resources Authority (MRA); if protected lakes are concerned, the Malta Environment and Planning Authority (MEPA) is the competent authority.</td>
</tr>
<tr>
<td>Transitional</td>
<td>Malta Resources Authority (MRA); if protected transitional waters are concerned, the Malta Environment and Planning Authority (MEPA) is the competent authority.</td>
</tr>
<tr>
<td>Coastal</td>
<td>Malta Environment and Planning Authority (MEPA).</td>
</tr>
</tbody>
</table>
Co-ordination among the different authorities for the management of different water categories is formalised. Coordination is carried out at the senior management/political level.

The level at which the meetings of the Inter-Ministerial Committee on Water take place is not entirely clear; however, the involvement of both the MRRA and the PMO indicate that it is a high-level (political/senior management) body.

The authorities involved in coordination are MEPA and MRA.

1.2 Authorities involved in preparing and approving the RBMPs

Both competent authorities are responsible for preparing and approving the RBMP.

Coordination mechanisms to deal with multiple authorities:

There is no information on how the coordination between MEPA and MRA was organised during the drafting and approving of the RBMP; from the "Public Participation" chapter of the RBMP, it can be concluded, however, that each authority was individually responsible for the measures and consultation in the waters under their respective responsibility.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

MEPA and MRA are responsible for the monitoring programmes in the water bodies/categories which fall under their responsibility.

There is no information on who undertakes monitoring (e.g. using an authority’s own facilities or using a contracted service).

There is no information in the assessed sources regarding the cooperation between MEPA and MRA concerning the monitoring activities.

Authorities responsible for monitoring the different water categories are outlined in the table below (Table 3).
### Table 3: Authorities responsible for monitoring in the different water categories

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>Malta Resources Authority (MRA); if protected rivers are concerned, the Malta Environment and Planning Authority (MEPA) is responsible for the monitoring.</td>
</tr>
<tr>
<td>Lakes</td>
<td>Malta Resources Authority (MRA); if protected lakes are concerned, the Malta Environment and Planning Authority (MEPA) is responsible for the monitoring.</td>
</tr>
<tr>
<td>Transitional</td>
<td>Malta Resources Authority (MRA); if protected transitional waters are concerned, the Malta Environment and Planning Authority (MEPA) is responsible for the monitoring.</td>
</tr>
<tr>
<td>Coastal</td>
<td>Malta Environment and Planning Authority (MEPA).</td>
</tr>
<tr>
<td>AWBs</td>
<td>As there are no AWBs designated in the RBMP, there is no information on responsibilities regarding AWBs.</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>Malta Resources Authority (MRA).</td>
</tr>
</tbody>
</table>

#### 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

**3.1 Integration with other Directives / Policies**

The responsible authorities for each directive / policy are named in the table below (Table 4).

### Table 4: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>MEPA for all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Department of Agriculture for all scales (Malta is so small that there is no difference between local and national scale) within the Ministry of Resources and Rural Affairs (MRRA). The Dep of Agriculture is involved in most of the agricultural measures listed in the PoM/the RBMP (as lead implementing agency).</td>
</tr>
<tr>
<td>Directive / Policy</td>
<td>Responsible Authority</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Bathing Waters Directive</td>
<td>Department for Environmental Health within the Ministry of Social Policy for all scales (Malta is so small that there is no difference between local and national scale); the Department for Environmental Health was not directly involved in developing the RBMP, but participates both as lead and implementing agency in some measures.</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Department for Environmental Health within the Ministry of Social Policy for all scales (Malta is so small that there is no difference between local and national scale); the Department for Environmental Health was not directly involved in developing the RBMP, but participates both as lead and implementing agency in some measures.</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>MRA for all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>MEPA for all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>MEPA for all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
<tr>
<td>Climate</td>
<td>MEPA for all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. All authorities/bodies mentioned above participate in implementing the WFD/the PoM; therefore, they also participate in the Inter-Ministerial Committee, where all measures/activities are coordinated.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 5).

**Table 5: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Department of Agriculture for all scales (Malta is so small that there is no difference between local and national scale) within the Ministry of Resources and Rural Affairs (MRRA). The Dep of Agriculture is involved in most of the agricultural measures listed in the PoM/the RBMP (as lead implementing agency).</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water Department for Environmental Health within the Ministry of Social Policy for all scales (Malta is so small that there is no difference between local and national scale); the Department for Environmental Health was not directly involved in developing the RBMP, but participates both as lead and implementing agency in some measures.</td>
</tr>
<tr>
<td>Driver / Sector</td>
<td>Responsible Authority</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Health</td>
<td>Health was not directly involved in developing the RBMP, but participates both as lead and implementing agency in some measures.</td>
</tr>
<tr>
<td>Wastewater</td>
<td>The Water Services Corporation (WSC) is responsible for the collection, treatment and safe disposal of wastewater. The WSC was not directly involved in developing the RBMP, but is involved in most of the measures targeting waste water and water provision listed in the PoM/the RBMP (as implementing agency).</td>
</tr>
<tr>
<td>Energy</td>
<td>MRA for all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
<tr>
<td>Transport</td>
<td>The Authority for Transport in Malta for all scales (Malta is so small that there is no difference between local and national scale). Malta Transport was not directly involved in developing the RBMP, but is involved in most of the measures targeting transportation issues or transportation infrastructures (as implementing agency).</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC Industry under IPPC falls under the responsibility of MEPA with regard to licensing, on all scales (Malta is so small that there is no difference between local and national scale). Non IPPC With regard to licensing/regulating activities of non-IPPC industries, MEPA is responsible on all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
<tr>
<td>Mining</td>
<td>The mining sector is very small in Malta; any activities with negative environmental impacts will be regulated/licensed by MEPA on all scales (Malta is so small that there is no difference between local and national scale).</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. All authorities/bodies mentioned above participate in implementing the WFD/the PoM; therefore, they also participate in the Inter-Ministerial Committee, where all measures/activities are coordinated.

4  Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation

Regulation 13 of the WPFR deals with public information and consultation. It requires the competent authority to encourage the active involvement of all interested parties in the implementation of the regulations, in particular in the production, review and updating of
the WCMP. The competent authority is required to publish and make available for comments to the public including users:

- a timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, at least three years before the beginning of the period to which the plan refers;

- an interim overview of the significant water management issues identified in the WCMP at least two years before the beginning of the period to which the plan refers;

- draft copies of the WCMP, at least one year before the beginning of the period to which the plan refers. On request, access is given to background documents and information used for development of the draft WCMP.

The competent authority must allow at least six months to comment in writing on those documents in order to allow active involvement and consultation. This applies also to updated WCMPs.

Moreover, the WCMP states that the responsibility for the implementation of the plan is shared between three major groups of players: (i) targeted primary stakeholders - government agencies and regulatory authorities that have a leading role in implementing the measures defined in the programme of measures; (ii) secondary stakeholders - those agencies or bodies that would have a secondary role in implementing the measures or would be directly or indirectly influenced by the measures and thus are likely to control their successful implementation; (iii) representatives of the general public and opinion leaders that are considered instrumental in disseminating information and in raising awareness of the general public. Since each citizen is considered to have a role to play in the successful implementation of the plan, it is important that the general public becomes acquainted with it and is involved in its implementation whenever relevant.

## 5 Impact of the WFD

### 5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD.

As well as not creating any new authorities, no significant changes have been made to existing authorities as a result of the WFD.

### 5.2 Organisation structure

The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the WCMP is not regulated although the WCMP itself states that it has ‘legal value’.

As mentioned above, Malta typically transposes EU Directives dealing with relevant environmental and sectoral policies through subsidiary legislation that often literally reproduces the provisions of individual EU Directives. This fact is central to the analysis of the relationship of the WCMP with other individual decisions. Relevant requirements from related sectors are found in separate regulations and since the parent Acts (typically the Malta Resources Authority Act and/or the Environment Protection and Development Act) deal primarily with procedural matters and competent authority functions, the relationship between the WCMP and other individual decisions is only defined in the law where it is already defined in an EU Directive it transposes. In such cases, it will typically be reflected in the relevant Maltese transposing instrument. Otherwise, there is no coordination stipulated in the law in terms of permitting requirements, reviews and timelines. Compatibility with the WCMP and environmental
objectives would depend on a coordinated approach being adopted by the competent authorities at the level of practical implementation.

In Malta, the RBMP is called the Water Catchment Management Plan (WCMP). Malta has no large and permanent river systems. Inland surface water systems are small and linked to the dynamics of several dry river valleys and their associated catchments. Given their very small size, the Maltese Islands were integrated into one water catchment district consisting of all hydrological sub-catchments, coastal waters up to one nautical mile from the baseline and all groundwater.

Directive 2000/60/EC is transposed into Maltese law through Legal Notice 194 of 2004, the Water Policy Framework Regulations (WPFR). Regulation 3 of the WPFR states that there will be one water catchment district in Malta and Gozo. The competent authority must take the measures necessary to ensure the appropriate administrative arrangements for the application of the regulations within the catchment district. It must also take the measures necessary to ensure that the requirements of the regulations for the achievement of the environmental objectives and in particular all programmes of measures are coordinated for the whole of the catchment district.

Regulation 11 of the WPFR requires the competent authority to establish a programme of measures for each water catchment district in order to achieve the environmental objectives. According to Regulation 12, the competent authority must ensure that a water catchment management plan is produced for each water catchment district.

The Minister responsible for the environment must approve the water catchment management plan, the environmental objectives and the measures established pursuant to the regulations.

The competent authorities are the Malta Resources Authority (MRA) with respect to inland water and the Malta Environment and Planning Authority (MEPA) with respect to coastal water. It is their role to coordinate, prepare and produce the WCMP and report to the European Commission on the implementation of the plan. The WCMP points out that in addition to the fundamental role played by these two authorities, ‘the active involvement of stakeholders and the general public has been imperative to the development of this plan. In fact several stakeholders and the public … have been consulted during its preparation. Their involvement will not stop with the publication of the plan but will be a continuous process until the end of the first planning cycle (6 years). The success of this WCMP depends fully on the cooperation of several different stakeholders and the public itself.’

Therefore, whilst several entities are involved in the preparation of the WCMP and PoM, the Minister responsible for the environment must ultimately approve these before the MRA and MEPA launch the WCMP. The authority ultimately adopting the plan and measures is therefore the government.

**6.1.1 Legal effect**

The WCMP is a planning document and does not have the status of a law. It is adopted by government authorities (the executive) and not the parliament (the legislature). Nevertheless, it originates from a legal obligation and is instrumental to the fulfilment of

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164 The Water Policy Framework Regulations were issued under the Malta Resources Authority Act, Chapter 423 of the Revised Laws of Malta.
EU requirements. It is reasonable to state that water policy should be consistent with the WCMP and it could therefore be seen to have some form of legal value that gives it a higher status than that of other acts of the competent authority such as guidelines and decisions. The WCMP itself states that it ‘has legal value and a political aim: it gives administrative bodies, the local authorities and the general public, directions and objectives to be achieved in the field of water management. This plan’s objectives have to be in line with other relevant environmental and sectoral policies in order to guarantee an integrated framework for water resource management.’ Nevertheless, it must be pointed out that the link between the WCMP and other environmental and sectoral policies does not emerge from the law itself. Malta typically transposes EU Directives dealing with relevant environmental and sectoral policies through subsidiary legislation; regulations in the form of Legal Notices reproduce (often literally) the provisions of individual Directives. This would not seem to guarantee an integrated framework for water management at law; rather, it leaves it up to a coordinated and integrated approach being adopted in practice by the competent authorities. Although no concrete practical actions towards this can be reported, it would seem that there is at least a strong commitment on behalf of the competent authorities for this to happen in practice. As cited earlier on in this paragraph, the WCMP uses mandatory language, stating that the ‘plan’s objectives have to be in line with other relevant environmental and sectoral policies...’.

No statement was found as to the binding effect or otherwise of the environmental objectives in the WCMP. However, as stated above, the WCMP has ‘legal value’ and its ‘objectives have to be in line with other relevant environmental and sectoral policies in order to guarantee an integrated framework for water resource management.’ Nevertheless, this does not emerge from the law itself and such compatibility of objectives would not seem to be guaranteed. At the level of practical implementation, given that the MRA and the MEPA are the main authorities responsible for the implementation of the WPFR and other sectors affecting water policy, the compatibility of laws, policies or administrative decisions related to water with the WCMP (environmental objectives) might be achieved by virtue of the fact that they are adopted by the same authorities. In fact, the WCMP specifies that it is built on sectoral plans, policies and programmes included in water related EU Directives. National plans or programmes dealing with the management of waste, resources and climate change strategies, such as, the Maltese Code of Good Agricultural Practice, the National Energy Efficiency Action Plan and the Fisheries Operational Programme for Malta were also taken into consideration in developing the WCMP.

6.1.2 Legal status in relation to individual decisions
It was possible to identify one legal provision that specifically requires existing permits to be in line with environmental objectives of the WPFR. Regulation 15 of the WPFR sets out a number of actions that may be taken by the competent authority when it considers that the conditions attached to a permit are no longer adequate, or that the activity authorised by the permit poses a previously unforeseen risk to the environmental objectives. It is important to note that Regulation 15(7) states that ‘permit’ covers any permit issued by the competent authority under the Malta Resources Authority Act.
and/or under the Environment Protection Act,\textsuperscript{165} or any regulation issued thereunder.\textsuperscript{166} The competent authority can:

a) alter the terms and conditions attached to the permit;

b) serve a remedial notice upon the permit holder setting out the steps which must be taken to comply with the altered conditions and to remove the risk or actual harm as well as the period in which these steps must be completed;

c) revoke the permit.

Where the previously unforeseen risk arising from an activity authorised by a permit cannot be mitigated by these measures, or when the conditions attached to a permit are no longer adequate, the competent authority may suspend the permit in whole or in part as necessary to avert the risk. The competent authority can also issue an enforcement notice if it believes that a permit holder is, or is likely to be, in breach of the conditions attached to the permit or of the regulations. The competent authority may also bring into effect punitive measures.

As explained above, the relationship between the WCMP (environmental objectives) and other individual decisions is not always regulated. There are no legal provisions that would ensure that timelines for the revision of permits are aligned with the revision of the WCMP. The fact that the relevant authorities and stakeholders involved in the implementation of WCMP and decisions in other sectors such as industrial installations are the same could ensure that these are in line with the environmental objectives in practice. This however is not a sufficient guarantee.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

\textbf{Hydropower installations}

There are no hydropower installations in Malta and therefore they are not regulated.

\textbf{Abstraction for agriculture}

Information on water abstracted for agriculture in Malta is extremely scarce. Whilst certain documents provide some information on agriculture in Malta, it is not directly relevant to this study.\textsuperscript{167} No legal instruments setting out a permitting process were identified. The website of the competent authority (the Ministry of Resources and Rural Affairs) does not provide any relevant information either.\textsuperscript{168}

\textsuperscript{165} The Environment Protection and the Development Planning Act were recently replaced by the Environment and Development Planning Act (Act X of 2010), Chapter 504 of the Revised Laws of Malta.
\textsuperscript{166} This refers to subsidiary legislation (typically transposing EU Directives) and adopted under the Malta Resources Authority Act e.g. the Assessment and Management of Flood Risks Regulations (Legal Notice 264 of 2010) or the Environment and Development Planning Act e.g. the Integrated Pollution Prevention and Control Regulations (Legal Notice 234 of 2002).
\textsuperscript{168} \url{http://www.agric.gov.mt/un_con?l=1} accessed on 17 February 2012.
**IPPC and other industrial installations**

The Integrated Pollution Prevention and Control Regulations (Legal Notice 234 of 2002) transpose Directive 2008/1/EC (IPPC Directive) into Maltese law. The competent authority is the MEPA. The requirements relating to the permitting of IPPC and other industrial installations mirror those found in the IPPC Directive. The transposing regulations do not make any link with the WPFR or the WCMP and the environmental objectives. There is therefore no requirement to review the permits in line with the environmental objectives. Likewise, timelines for revision are not aligned.

### 6.2 Relationship with other sectoral policy plans

It is important to recall the point made in question 2 above. The relationship between the WCMP and other plans is only defined in the law where it is already defined in an EU Directive that it transposes. In such cases, it will typically be reflected in the relevant Maltese transposing instrument (e.g. see below with respect to floods). Otherwise, there is no coordination stipulated in the law in terms of permitting requirements, reviews and timelines. Compatibility with the WCMP and environmental objectives would depend on a coordinated approach being adopted by the competent authorities in practice.

The need to strengthen the legal relationship with other sectoral plans is recognised by the PoM. According to point (ii) of Section 2.1 of the PoM for the WCMP, one of the key measures to guarantee the successful implementation of the WCMP is strengthening the relationship between environmental and planning regulatory processes. The PoM recognises that the WCMP has a vast scope and states that it is therefore necessary to develop a framework with the aim of: Encouraging internal MEPA interaction between the environment and spatial planning sectors. The interaction between spatial planning and integrated water catchment management is needed in order to ensure that land use plans do not conflict with the objectives set out in the WCMP. During the review period of Local Plans, all relevant measures emanating from the WCMP should be incorporated. Also water related plans and programmes have to take into consideration the broader landscape related aspects.

(a) Integrating water management objectives into sectoral programmes, plans and policies. This can be partly ensured by means of activating the strategic environmental assessment procedures, appropriate assessment and environmental impact assessment to consider and integrate water management objectives. For instance the Water Framework Directive objectives should be reflected in the environmental impact assessment scoping and terms of reference exercise and/or within development policies.

The lead implementing authority is the MEPA and the relevant stakeholders are the Office of the Prime Minister and the Ministry for Resources and Rural Affairs.

With specific reference to flood risk management plans, Regulation 7 of the Assessment and Management of Flood Risks Regulations (Legal Notice 264 of 2010)\(^\text{169}\) states that the regulations must be implemented in consistency with the WPFR and must focus on opportunities to improve efficiency, information exchange and to achieve common synergies having regard to the environmental objectives in the WFPR. In particular:

• the development of the first flood hazard maps and flood risk maps and their subsequent reviews must be carried out in a such a way that the information they contain is consistent with relevant information pertaining to the WPFR and must be coordinated with, any may be integrated into, the reviews provided for in Regulation 5(2) of the WPFR (that is, the characteristics of the water catchment management district, review of the environmental impact of human activity and economic analysis of water use must be reviewed and if necessary updated by the end of November 2013 and every six years thereafter);

• the development of the first food risk management plans and their subsequent reviews must be carried out in coordination with, any may be integrated into, the reviews of the water catchment management plans;

• the active involvement of all interested parties must be coordinated with the active involvement of parties under the WPFR.

Essentially, Regulation 7 simply reproduces very closely the wording of Article 9 of Directive 2007/60/EC. However, there are no further specifications or structure detailing how the requirements should be given effect to.

The competent authority is the MRA for inland water and MEPA for coastal water. These are the same competent authorities as for the WCMP.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures / activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

The MRA is the competent authority to take preventive measures, grant authorisation and the required licences, conduct investigations, and monitor and implement the provisions of all regulations regarding groundwater, whereas MEPA has two main permitting functions: the permitting of operations from an environmental perspective, and the permitting of developments (i.e. MEPA is responsible for licensing installations and activities with potential environmental impacts, which include point source discharges and hydromorphological alterations). There is no detailed information on licensing diffuse pollution activities, however; agriculture is under the responsibility of the MRRA, which probably is responsible for licensing any related activities.

Permits (licences) are coordinated by the main WFD competent authority.

There is no information on whether there is an inventory of permits (licences).
The responsible authorities for different water users are indicated in the table below (Table 6).

**Table 6: Authorities responsible for different water users**

<table>
<thead>
<tr>
<th>Water Users</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Groundwater abstractions: MRA. No surface water abstractions in Malta.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>For infrastructure projects/development projects with a potential environmental impact, the MEPA is responsible for issuing permits.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>For installations with a potential environmental impact through pollution, the MEPA is responsible for issuing permits.</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>No detailed information on licensing of diffuse pollution activities; agriculture, however, is under the responsibility of the MRRA, which probably is responsible for licensing any related activities.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>For infrastructure projects/development projects with a potential environmental impact, the MEPA is responsible for issuing permits.</td>
</tr>
</tbody>
</table>

There is no indication of coordination between the authorities regarding licensing issues.

### 7.2 Permit applications

The process for application for a permit is described below.

The Development Planning Act and Environment Protection Act define MEPA’s responsibilities for licensing; the SUBSIDIARY LEGISLATION 504.103: "DEVELOPMENT PLANNING PROCEDURE FOR APPLICATIONS AND THEIR DETERMINATION REGULATIONS" defines the exact steps of the application process. The application forms are available on the website of the MEPA, and filled by the (private) applicant; the applications then will be assessed by the MEPA and several planning bodies; in cases where the impacts are potentially significant, environmental assessments will be performed before the application is granted. The applicant has the right to submit an appeal against the respective decision (within 30 days). With regard to groundwater, the MRA follows a similar procedure as the MEPA, based on the Malta Resources Act. Again, the SUBSIDIARY LEGISLATION 504.103: "DEVELOPMENT PLANNING PROCEDURE FOR APPLICATIONS AND THEIR DETERMINATION REGULATIONS" defines the exact steps of the application process, and forms are available on the website. The applicant has the right to submit an appeal against the respective decision (within 30 days). In both cases, the first step in a screening process, which shall be finalised within four weeks from the submission of a request; the resulting "screening letter" contains information regarding all documentation, studies, and requirements necessary for fulfilling all requirements listed in a "Submission Requirements Checklist"; provided that if the application as submitted is not in line with the screening letter, the respective authority allows a term not exceeding four weeks within which the applicant may comply with the letter; failing, the application is withdrawn by the Authority. The further proceedings depend on the
type of the project, as laid out in the annexes to the SUBSIDIARY LEGISLATION 504.103. Differences for different types of water or scale are detailed below (Table 7).

**Table 7: Differences for different types of water or scale**

<table>
<thead>
<tr>
<th>Permit</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Groundwater abstractions fall under MRA’s responsibility, and are licensed by a similar procedure of the above mentioned. There are no surface water abstractions on Malta.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>As described above (responsible: MEPA).</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>As described above (responsible: MEPA).</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>No detailed information on licensing of diffuse pollution activities; agriculture, however, is under the responsibility of the MRRA, which probably is responsible for licensing any related activities.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>As described above (responsible: MEPA).</td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

### 7.3 Enforcement of permits: authorities

There are several water-related permits processed by different authorities. Most of these permits are integrated within the environmental permitting system implemented by the Malta Environment and Planning Authority (MEPA).

The following authorities are responsible for the issuing and enforcement of water-related permits:

- To discharge effluent to sewer – The Water Services Corporation
- To discharge effluent to sea – Malta Environment and Planning Authority, under the Prime Minister’s Office
- Water abstraction point registration (including well, borehole or spring) – Malta Resources Authority, under the Ministry of Resources and Rural Affairs (MRRA)
- Private water supplier registration – The Directorate for Environmental Health
- Swimming Pool Registration – The Directorate for Environmental Health

The enforcement bodies are not organised by geographic area.

Enforcement roles are not separated by economic sector.

MEPA’s enforcement responsibility covers different economic sectors such as IPPC, industry and agriculture.
Compliance with the environmentally related agricultural suite of legislation also calls upon the Department of Agriculture, particularly where waste management and good agricultural practice is of concern.

The Malta Resources Authority is responsible for enforcing water source (abstraction) registrations, whilst enforcement of discharges to sewer falls under the responsibility of the Water Services Corporation.

There are separate authorities responsible for the enforcement of different types of water-related permits. As noted above, there are a number of authorities responsible for the issuing and enforcement of various water-related permits. These are as follows:

- To discharge effluent to sewer – The Water Services Corporation
- To discharge effluent to sea – Malta Environment and Planning Authority
- Water abstraction point registration (including well, borehole or spring) – Malta Resources Authority
- Private water supplier registration – The Directorate for Environmental Health
- Swimming Pool Registration – The Directorate for Environmental Health

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities
Coordination is carried out through regular meetings and continuous communication between different authority's focal points and representatives have established a network among authorities.

#### 7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are not separate entities. The regulatory role of the different water management authorities is often tied to their enforcement role. They are not shared between authorities; i.e. if MEPA is responsible for the issuing of an IPPC permit, it would also be responsible for the enforcement of that permit.

It is not clear if the Inter-Ministerial Committee on Water also addresses enforcement issues.

### 7.5 Enforcement actions

#### 7.5.1 Number of inspectors
During 2010, compliance inspections equivalent to 90 man hours were carried out at installations with marine discharges. With reference to disposal at sea permits, which are issued by MEPA, one officer was processing these applications.

#### 7.5.2 Number of inspections
MEPA carried out 6 inspections at installations having a discharge point to sea. These were carried out as part of the environmental permitting process for the particular installation. Moreover, MEPA carried out 5 inspections at installations having a discharge point which fall under Seveso, during which the infrastructural and operational management at this installations is inspected. With reference to disposal at sea permits, in 2010, MEPA monitored six active permits for disposal at sea.
7.5.3 Number of infringement actions
No infringement actions were initiated in 2010.

7.5.4 Other mechanisms (in addition to inspections)
Control of installations holding an environmental permit is also carried out through the submission of an annual environmental report, which includes monitoring data carried out by the operator.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
The type of sanction is dependent upon the breach carried out and each case is considered individually. Administrative sanctions include fines and suspension of permits. Criminal sanctions would involve taking the operator to court. Criminal prosecution would only be carried out in the most serious of offences.

IPPC: Criminal sanctions for IPPC-related offences can include fines and/or imprisonment, payment of expenses incurred by the competent authority as a result of the offence, the revocation of the permit issued by the competent authority and confiscation of the corpus delicti, including the vehicle, if applicable. (IPPC enforcement study (Milieu Ltd, for DG Environment), based on LN 234/2002, LN 349/2010, LN 172/2010, LN 336/2001)

7.6.2 Sanctions normally brought for water violations
No information on sanctions normally brought. In 2010, as noted above, no infringement actions were launched related to water permits.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
No information found.

7.7.2 Weaknesses of the system of inspections and enforcement
No information found.

7.7.3 Influence of the WFD and the RBMPs on enforcement
No information found.
8 References

Development Planning Act (1992)

Environmental Planning and Industry Environment Protection Directorate, MEPA.

Excel-Sheets on the Results of the Consultation Process (http://www.mepa.org.mt/topic-wcmp)

Homepage of the Malta Resources Authority (http://www.mra.org.mt/)


Homepage of the Maltese Environment & Planning Authority (http://www.mepa.org.mt/water)

Homepage of the Office of the Prime Minister (https://opm.gov.mt/mepa_info)

Homepage of the Water Services Corporation (http://www.wsc.com.mt/content/wastewater-treatment-and-collection)

IPPC Enforcement Study (Milieu LTD, Provisions on Penalties Related to Legislation on Industrial Installations, 2011, for DG Environment)

Malta RBMP (pages 57ff)

Malta Resources Act (2000)

Malta Today (http://www.maltatoday.com.mt/2010/05/19/t8.html)

Malta water resources review (FAO 2006)

Office of the Prime Minister


- Website of the Malta Resources Authority: http://www.mra.org.mt/wfd_introduction.shtml

- Website of the Malta Environment and Planning Authority: http://www.mepa.org.mt/water

Subsidiary Legislation 504.103: “Development Planning Procedure for Applications and Their Determination Regulations”


Water Policy Framework Regulation (L.N. 194 of 2004)

WISE Summary Report (chapter 1)
### 1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry for Infrastructure and the Environment</td>
<td>Provincial executives, Water boards (waterschappen), municipalities, Regional Administrative Groups, Regional Management Groups, Central coordination bureau for river basins of The Netherlands</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Infrastructure and Environment</td>
<td>Provinces, water boards, municipalities Regional Administrative Groups, Regional Management Groups.</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Ministry for Infrastructure and the Environment</td>
<td>Provinces, water boards, Rijkswaterstaat</td>
</tr>
<tr>
<td>Permitting</td>
<td>Ministry for Infrastructure and Environment (including Rijkswaterstaat), provinces, water boards, municipalities</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Rijkswaterstaat, National Inspectorate for environment and transport,</td>
<td></td>
</tr>
</tbody>
</table>
The main competent authority responsible for the implementation of the WFD is the Ministry for Infrastructure and the Environment.

On the 14th of October 2010, a Royal Decree was issued merging parts of the Ministry of Housing, Spatial Planning and the Environmental Management and the Ministry of Transport, Public Works and Water Management to a new Ministry for Infrastructure and the Environment. Almost all competences of these former ministries have been assigned to the new Ministry for Infrastructure and the Environment.

The RBMP’s were published before this date so in these documents the former Ministry of Transport, Public Works and Water Management is still indicated as being the main competent authority for WFD implementation. In the Wise summary this is already corrected.

### 1.1 Division of responsibilities

The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.).

The responsible authorities for implementing the requirements of the WFD are: The Ministry for Infrastructure and the Environment; the provincial executives, Water boards (waterschappen) and the municipalities.

The division of responsibilities is not done on the basis of water category, but rather other criteria: national vs. regional waters; type of activity (for example size of abstraction to be licensed).

The authorities responsible for implementing the requirements of the directive for the different water categories are outlined in the table below (Table 2).

**Table 2: Summary of authorities responsible for implementing the requirements of the WFD for the different water categories**

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>The ministry of Infrastructure and Environment (national waters) Water boards (waterschappen) (regional waters)</td>
</tr>
<tr>
<td>Lakes</td>
<td>The ministry of Infrastructure and Environment (national waters) Water boards (waterschappen) (regional waters)</td>
</tr>
<tr>
<td>Transitional</td>
<td>The ministry of Infrastructure and Environment (national waters) Water boards (waterschappen) (regional waters)</td>
</tr>
<tr>
<td>Water Category</td>
<td>Authorities</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Coastal</td>
<td>The ministry of Infrastructure and Environment (national waters)</td>
</tr>
<tr>
<td>AWBs</td>
<td>The ministry of Infrastructure and Environment (national waters) Water boards (waterschappen) (regional waters)</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>The ministry of Infrastructure and Environment; The provincial executives, Water boards (waterschappen) and the city and town councils.</td>
</tr>
</tbody>
</table>

The management of surface waters is done by the state for the main water courses (implemented by “Rijkswaterstaat”, the institution responsible for development and management the national roads and waterways network, under the authority of the Ministry for Infrastructure and the Environment) and by the Water Boards (waterschappen) for regional waters.

For management of groundwater also different authorities are involved. Municipalities have the duty to maintain groundwater. The provinces have the authority on major abstractions and infiltrations, the water boards are responsible for the remaining quantitative water management. The Ministry of Infrastructure and Environment also regulates some activities that are relevant for groundwater.

Co-ordination among the different authorities for the management of different water categories is formalised. Coordination is carried out at a technical and political level.

One of the pillars of the National Water plan is the cooperation between authorities. It is mentioned that, since the introduction of the WFD, cooperation exists between authorities on the (sub) river basin basis and that this is successful.

The Dutch part of the river basins Meuse, Scheldt and Ems and 4 sub river basins in the Dutch part of the Rhine each have a cooperation structure. Each (sub) river basin has a Regionaal Bestuurlijk Overleg (RBO, Regional Administrative Group) and a Regionaal Ambtelijk Overleg (RAO, on the level of management). They meet 2 – 4 times per year. The RBO contains the responsible persons of the relevant provinces and water boards and representatives of the municipalities. Also representatives of the Ministry for infrastructure and the Environment are present to relate issues between the national and the regional level.

The National water consultation (nationaal wateroverleg), under chairmanship of the state secretary of the Ministry of infrastructure and the environment, plays an important role in implementing the WFD. Representatives of the other competent authorities (provinces, water boards, communities, other relevant ministries) take part in this consultation. Here the national framework for drafting the four RBMP’s was set out.

In 2012 the National water consultation will be reformed to a Stuurgroep Water. Here the national level will be represented by the state secretary and the Directorate general of the Ministry for infrastructure and the Environment. Representatives of the other
competent authorities (provinces, water boards, communities, other relevant ministries) take part in this consultation.

The "central coordination bureau river basins The Netherlands" ('Coördinatiebureau Stroomgebieden Nederland') has the task to support the state and regional authorities in implementing the WFD via a range of national and regional consultation bodies.

According to the national water plan, the state is responsible for setting out the framework for water management in the country. So it can be assumed that the state is the coordinating authority. But how this is done in practice is not mentioned.

The Dutch part of the river basins Meuse, Schelde and Eems and 4 sub-river basin in the Dutch part of the Rhine each have a cooperation structure. Each (sub) river basin has a Regionaal Bestuurlijk Overleg (RBO, Regional Administrative Group) and a Regionaal Ambtelijk Overleg (RAO, on the level of management). They meet 2 – 4 times per year. The RBO contains the responsible persons of the relevant provinces and water boards and representatives of the municipalities. Also representatives of the Ministry of infrastructure and the environment are present to relate issues between the national and the regional level.

1.2 Authorities involved in preparing and approving the RBMPs

The state secretary of the Ministry of Infrastructure and Environment is the end responsible for implementing the WFD in the Netherlands (this includes drafting RBMPs and PoMs). This is done in close consultation with the provinces, water boards and municipalities.

The National water consultation (nationaal wateroverleg), under chairmanship of the state secretary of the Ministry of infrastructure and environment, plays an important role in implementing the WFD. Representatives of the other competent authorities (provinces, water boards, communities, other relevant ministries) take part in this consultation. Here the national framework for drafting the four RBMP’s and PoMs was set out.

In 2012 the National water consultation will be reformed to a Stuurgroep Water. Here the national level will be represented by the state secretary and the Directorate general of the Ministry of infrastructure and the environment. Representatives of the other competent authorities (provinces, water boards, communities, other relevant ministries) take part in this consultation.

The National administration agreement on water “Het Nationaal Bestuursakkoord Water” mentions that the RBMP’s are drafted by the state based on information delivered by the
other authorities. But how this information is delivered is not described. See Werkprogramma Stroomgebiedbeheerplannen 2015 (now under consultation cf WFD art 14); http://www.helpdeskwater.nl/onderwerpen/wetgeving-beleid/kaderrichtlijn-water/ (third report).

The RBMPs also mention that the provinces, water boards and municipalities have the task to deliver input for the RBMPs and PoMs. But how this is organised is not described. This is legally based in the Water Decree. In practice information is gathered in national databases filled by individual water boards, Rijkswaterstaat and provinces. To facilitate this, an Informatiehuis Water (Informationhome Water) is set up. See Werkprogramma Stroomgebiedbeheerplannen 2015 (now under consultation cf WFD art 14); http://www.helpdeskwater.nl/onderwerpen/wetgeving-beleid/kaderrichtlijn-water/ (third report).

The water boards also make management plans at the lower level (sub basins). The provinces and water boards make agreements on water management and policy programs and discuss the progress of the management plans on the individual level through an annual consultation.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.

The RBMPs mention that the state (Ministry for Infrastructure and the Environment) is responsible for coordinating and partly executing monitoring. The provinces and the water boards are also responsible for partially executing monitoring.

All the manuals and protocols have a legal character; see http://wetten.overheid.nl/BWB0027497/. For water managers this information is available via www.helpdeskwater.nl and there is a working group active for updating this information.

No information was found on who undertakes monitoring (e.g. using an authority’s own facilities or using a contracted service).

It is not clear if different authorities are responsible for the three types of monitoring (surveillance, operational and investigative). Reference is made to chapter 4 of the NL RBMPs.

The National water consultation (nationaal wateroverleg), under chairmanship of the state secretary of the Ministry of infrastructure and environment, plays an important role in implementing the WFD. Representatives of the other competent authorities...
(provinces, water boards, communities, other relevant ministries) take part in this consultation. Here the national framework for monitoring was set out.

Different authorities are responsible for monitoring the different water categories, as outlined in the table below (Table 3).

**Table 3: Authorities responsible for monitoring in the different water categories**

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>Rijkswaterstaat for state managed and Water Boards for regional rivers</td>
</tr>
<tr>
<td>Lakes</td>
<td>Rijkswaterstaat for state managed and Water Boards for regional lakes</td>
</tr>
<tr>
<td>Transitional</td>
<td>Rijkswaterstaat</td>
</tr>
<tr>
<td>Coastal</td>
<td>Rijkswaterstaat</td>
</tr>
<tr>
<td>AWBs</td>
<td>Rijkswaterstaat for state managed and Water Boards for regional AWB’s</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>Provinces</td>
</tr>
</tbody>
</table>

**3 Integration**

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

**3.1 Integration with other Directives / Policies**

The responsible authorities for each directive / policy are named in the table below (Table 4).

**Table 4: Summary of responsible authorities for different directives and policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>According to the water law the municipalities are responsible for collection and transport of urban waste water treatment and the water boards are responsible for waste water treatment. Both authorities were involved in RBMP development. These are both regional/local authorities.</td>
</tr>
<tr>
<td>Directive / Policy</td>
<td>Responsible Authority</td>
</tr>
<tr>
<td>------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>It is unclear if there is coordination or supervision at the national level regarding the UWWT directive. Ministry of Infrastructure and the Environment.</td>
<td></td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>The Ministry of Economic Matters, Agriculture and Innovation is the competent authority at federal level regarding the nitrate directive. This ministry exists since 2010 and is, amongst others, responsible for the tasks of the former ministry of agriculture, nature and food quality. According to the RBMP the former ministry of agriculture, nature and food quality was involved in drafting the RBMP’s. This is at the national level, no information found on implementation at the local/regional level.</td>
</tr>
<tr>
<td>Bathing Waters Directive</td>
<td>The Ministry of Infrastructure and the Environment is the competent authority at federal level. The state and the provinces indicate bathing waters in their water plans (nationa/regional) based on the water law. Water boards include these bathing waters in their management plans.</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>The Drinking water directive is implemented in 2000 in the Dutch waterworks law. This law states that the State is the political responsible for drinking water supply. Drinking water is delivered by ten drinking water companies, spread out over the territory of the country. Ministry of Infrastructure and the Environment.</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>In the Netherlands several flood protection plans already existed. Via the water law, the flood risk directive had been implemented in Dutch law. No large-scale new approach is needed for implementing the flood risk directive. Only the existing plans have to be tuned to each other. The ministry of Infrastructure and the Environment, the ministry of internal affairs and state relations, together with the Provinces, union of water boards and the safety regions have developed the flood risk maps together.</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>The Ministry of Infrastructure and the Environment is also the main responsible for the implementation of the directive on marine strategy. Provinces, Water boards and municipalities that have marine waters in the territory also have to apply this directive.</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>The ministry of economic matters, agriculture and innovation is the competent authority at the national level for implementing the habitat directive. Regional and local governments (provinces and municipalities) have a lot to do in daily practice with the implementation of this directive (via permits, regional plans etc.)</td>
</tr>
<tr>
<td>Climate</td>
<td>The Ministry of Infrastructure and the Environment is also the main</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority. For many of the key directives the ministry of Infrastructure and the Environment is (one of the) competent authorities. The National Water Plan is set up in agreement with all relevant Ministries. For the other directives no information was found on coordination or communication.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 5).

#### Table 5: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>The ministry of economic matters, agriculture and innovation is the competent authority at federal level for agriculture. This ministry exists since 2010 and is, amongst others, responsible for the tasks of the former ministry of agriculture, nature and food quality. According to the RBMP the former ministry of agriculture, nature and food quality was involved in drafting the RBMP’s. This is at the national level, no information found on implementation at the local/regional level.</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>The State is the political responsible for drinking water supply. Drinking water is delivered by ten drinking water companies, spread out over the territory of the country. No information was found on how the drinking water companies are involved in the development of the RBMP’s. As all stakeholders, they are involved in public participation in several ways. In addition, from 2010 onwards there are regular stake-holder meetings on the working program (2011), important water management issues (beginning of 2013) and draft plans (2014). The (still draft) document cf WFD art 14 on important water management issues contains a chapter in which each stakeholder gives their opinion on important water management issues, in addition to a more 'objective' problem definition starting with the outcomes of WFD assessment. Vewin, the association of the drinking water companies is mentioned as one of the publishers of “The National administration agreement water”, next to the ministry of Infrastructure and the Environment, the water boards, the provinces and the union of municipalities. So there must be some cooperation and coordination on the topic of integrated water</td>
</tr>
</tbody>
</table>
### Driver / Sector | Responsible Authority
---|---
Management, but this is not specified to the requirements of the WFD. **Wastewater**  
According to the water law the municipalities are responsible for collection and transport of urban waste water treatment and the water boards are responsible for waste water treatment. Both authorities were involved in RBMP development. These are both regional/local authorities.

**Energy**  
The ministry of economic matters, agriculture and innovation is the competent authority at federal level for energy. This ministry was involved in the drafting of the RBMP's.

**Transport**  
The ministry of Infrastructure and the Environment is also the responsible authority for transport.

**Industry**  
**IPPC**  
The ministry of economic matters, agriculture and innovation is the competent authority at state level for industry (IPPC and non-IPPC). This ministry was also involved in drafting the RBMPs. The ministry of Infrastructure and the Environment is the responsible authority for implementing the IPPC directive.  
**Non IPPC**  
The ministry of economic matters, agriculture and innovation is the competent authority at state level for industry (IPPC and non-IPPC). This ministry was also involved in drafting the RBMPs.

**Mining**  
The ministry of economic matters, agriculture and innovation is the competent authority at state level for mining. This ministry was also involved in drafting the RBMPs.

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The National Water Plan is set up in agreement with all relevant Ministries.

## 4 Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

### 4.1 Formal mechanisms of consultation
The consultation process for the preparation and review of the RBMPs is regulated in the Water Law (Art 4). At least three years before the adoption of the RBMPs, the Minister publishes for public review the timetable and work program for the preparation of the RBMPs. At least two years before the adoption, the Minister issues for public review the
interim overview of the most important water management issues for the different river basins.

During the preparation, the Minister consults the relevant provincial authorities ("gedeputeerde staten van de provincies") and the water boards ("de waterschappen"; the geographical water authorities in the Netherlands). Furthermore, there is a mandatory period of public consultation of six months during which the public can make written and verbal comments on the draft plans, in accordance with the standard public consultation procedures of the General Administrative Law ("Algemene Wet Bestuursrecht"; noting that the standard period is six weeks and in this case six months).

In 2009, the four draft RBMPs were available for consultation of public inquiry a period of six months. For each of the RBMPs, so-called regional stakeholder groups ("klankbordgroepen") were officially installed, consisting of representatives of industry, civil society, and government, in order to structurally engage and involve them in the preparation of the RBMPs. Each RBMP contains a short description of this process. There is no formal requirement to maintain these stakeholder groups during the implementation phase of the RBMPs, but it can be expected their work will continue.

The draft versions of the National Water Plan, the Management and Development Plan for National Waters, the provincial water plans or provincial spatial plans, and the water management plans of the water boards were also available for consultation. The opinions received were addressed and the resulting changes incorporated into the final plans. Also included was an overview of the modifications resulting from the public participation procedure ("Nota van Antwoord").

It should also be noted that the Water Law stipulates that the National Water Plan (including the RBMPs) are legally considered as so-called “structural visions” for the purposes of spatial planning, which implies that the plan is subject to an environmental impact study ("milieu-effect rapportage").

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD. A Coordinationbureau Riverbasins Nederland has been set up to bridge regional and national authorities, see working program (cf WFD art 14.1.a): http://www.centrumpp.nl/projecten/alle_procedures/werkprogrammastroomgebiedbeheerplannen20152012.aspx.

As well as not creating any new authorities, no significant changes have been made to existing authorities as a result of the WFD. In the Wise summary is mentioned that “the Implementation law WFD” states that legal competences of different authorities in terms of water management, that were installed before the implementation law also stay in place after the implementation of the WFD. Only some additional legal aspects are stated that are needed to comply with the specific terms of the WFD.
The process structure set up for WFD and the cooperation that was the result, has been very beneficial for other processes such as Flood Directive and the national Delta program.

5.2 Organisation structure

The following diagrams (Figures 1-4) illustrate the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

**Figure 1: Diagram provided by consultant**

![Diagram](image1.png)

All figures provided by the SGC are used in the working program. The third (Figure 4) is the changed process structure from 2010 onwards.

**Figure 2: Diagram provided by SCG**

![Diagram](image2.png)
**Figure 3: Diagram provided by SCG**

**Oud: Stroomgebiedbeheerplannen 2009**

![Diagram showing the 2009 water management plans with wetgeving (Bkmw), Nationaal Water Plan, Stroomgebied beheerplan, and reporting sheets to EC.]

**Figure 4: Diagram provided by SCG**

**Nieuw: Stroomgebiedbeheerplannen 2015**

![Diagram showing the 2015 water management plans with Nationale Omgevingsvisie of plan, wetgeving (Bkmw), Stroomgebied beheerplan = reporting sheets, and Factsheets (operationeel plan?).]
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the RBMP is regulated in the Water Law and its underlying Water Decree.

In the Netherlands, the RBMPs ("stroomgebiedsbeheerplannen") are prepared in accordance with the procedure described in the Water Law (Art 4). According to the Water Law, the Netherlands prepares four RBMPs (Ems, Meuse, Rhine Delta and Scheldt), which are officially part of the National Water Plan ("Nationaal Waterplan"). The plan is adopted by the Minister of Infrastructure and the Environment ("Minister van Infrastructuur en Milieu"), and submitted to the Council of Minister ("Ministerraad").

The Minister of Infrastructure and the Environment sends the approved version of the National Water Plan (including the RBMPs) to the National Parliament ("Staten Generaal").

6.1.1 Legal effect

The RBMPs are planning documents and form part of the National Water Plan. In the hierarchy of legal acts, on the one hand, it falls under laws and regulations (decrees). It cannot contradict laws and regulations, and has no binding legal nature as such. However, as a national planning document, it is self-binding to the national government, and where needed, local governments are expected to implement it and transpose its provisions in their local planning documents. In cases where the plan seeks to have a legally binding impact, it indicates which legal instruments should be used.

The RBMPs have clearly described environmental objectives and a section that describes their binding effect, including their relationship with environmental permits (see below).

The environmental objectives are incorporated in the Decree on the quality requirements and monitoring of water ("Besluit kwaliteitseisen en monitoring water," Bkmw 2009).

An exception is made for ecological objectives for artificial and heavily modified surface water bodies, which are in the Management and Development Plan for National Waters, for the regional waters the provincial water plan or provincial spatial plan.

The objectives and measures derived from the decree into a water plan. The objectives for heavily modified and artificial surface waters are laid down for each individual water body, those for waters in the main system are laid down in the Management and Development Plan for National Waters, and those for regional waters in a provincial water plan or provincial spatial plan.

The programmes of measures for the RBMPs comprise both basic measures and supplementary regional measures. Basic measures are all measures resulting from European obligations and national generic policy. Supplementary regional measures are all measures taken for specific water bodies with a view to achieving the objectives of the Water Framework Directive.
The water management authorities are responsible for ensuring that the supplementary regional measures for each individual water body are recognizably included in the water plan.

6.1.2 Legal status in relation to individual decisions

The 2009 Decree on the quality requirements and monitoring of water (Bkmw 2009) stipulates that, in adopting the water management plan and the provincial water or spatial plan, the water management authorities and the provinces, respectively, take the environmental quality requirements of the WFD into account. These plans should, therefore, indicate what measures are being taken to meet these requirements. As regards chemical quality, current licensing policy, including the emission-immission test for surface waters, and the existing general rules remain the starting point for assessing point sources. By periodically upgrading the state of the art in terms of best available technologies and best environmental practices – taking into account cost effectiveness and economic capacity of companies and sectors – and applying this in the source-oriented approach, total emissions and discharges in the management area can be reduced, creating space for new activities and related emissions. In this way, economic activities are disconnected from the resulting environmental impact in an attempt to achieve environmental objectives. In the event of localised disproportionate growth of preferred activities, the management plan in question will indicate how these activities are or can be made compatible. If water conditions are insufficient as a result of environmental impact from existing inputs and these inputs cannot be reduced or not in time, this may mean that, for the time being, no permits will be granted for new inputs. However, a permit may nevertheless be granted if the activity for which a permit has been requested is of significant public interest and if adequately limiting the new discharge or emission is technically not feasible or disproportionally expensive now or in the near future. In that case, the plan must indicate that the environmental quality requirement cannot be achieved and that the target must be lowered. This will have to be thoroughly substantiated.

The central government is responsible for an effective regulatory framework, including the implementation of European directives. It also sees to effective coordination with other policy fields, so that any measures taken in other areas can contribute to improving the water quality. The water management authorities are responsible for most of the programme of supplementary measures. Rijkswaterstaat manages the main water system, the water boards manage the regional surface water system and shallow groundwater, and the provinces manage the deep groundwater system.

Municipalities are responsible for measures relating to sewers, the disconnecting rainwater from the sewer system, and the management of urban water. Municipalities can also limit diffuse discharges by using non-leaching construction materials and reducing the use of chemical pesticides. They can achieve this by setting a good example or by additional regulation. Provinces and municipal councils also play a key role in the spatial incorporation of measures, for example creating space for restoring the meanders of streams. An important tool is the land use plan. Municipalities grant building permits and inform citizens about water quality. They also take into account the importance of surface water protection through execution of the Watertest (Watertoets). All these activities are in line with current municipal policy.

In 2013, an assessment will be conducted to determine how the quality of the ground- and surface water compares to the water quality objectives to be achieved by 2015. The
water quality in 2015 as estimated by the water management authorities will be used as an alternative for those water bodies for which it is clear that the objectives will not be achieved by 2015 (phased implementation). Based on this comparison, an assessment will be made to see whether the measures implemented until then have resulted in the expected improvement of the water quality. These results and the Implementation of Measures 2009 – 2015 progress report will form the basis of the sets of measures to be formulated for the 2016 – 2021 period and beyond. The results of planned studies of innovations will also be used to improve water quality further. In December 2014, the second draft river basin management plans will be available for inspection. The final plans will be published by 22 December 2015 at the latest.

Environmental permits are issued under the regime of the Environmental Management Law (Wet milieubeheer) according to which the relevant authority should consider the environmental impacts of an activity before deciding on the permit. The Law is implemented through the Decree environmental impact studies (“Besluit milieueffectrapportage”, 1994) that in its Annex (“Onderdeel C”) lists the activities and decisions for which environmental impact studies are required. With regards to the environmental quality standards that need to be considered for the permit, the Law and the underlying Decree refer to the National Waterplan (of which the RBMPs are a part).

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Hydropower installations are subject to environmental impact studies as mentioned above. For significant changes in the water flow and water balance of a main waterway, the decision-making process is subject to the rules and procedures of the Tracéwet, a special law for large infrastructure projects that require special studies and involvement of the National Parliament.

In addition, the impacts of spatial changes on water flow and water balance are subject to the instrument of watertest (“Watertoets”). As part of this instrument, the initiator of a project needs to engage early on with the water managing authority.

The RBMPs do not include explicit provisions requiring a review of the existing permit/concession regime for hydropower installations in line with environmental objectives, but these are covered through the reference to the National Waterplan in the Decree environmental impact studies mentioned above.

**Abstraction for agriculture**

In relatively recent years, discharge decisions (“lozingenbesluit”) have been introduced for horticulture, crops (arable, field vegetables, fruit and bulbs), and livestock (Discharges decision open cultivation and cattle). A few years ago it was decided to consolidate the various agricultural decisions. The consolidated agricultural regulations will be included in the existing Activities Decree (“Activiteitenbesluit”). The revised Activities Decree is expected to take effect 1 July 2012. Until that time, the current agricultural decisions are in effect.
The RBMPs do not include explicit provisions requiring a review of the existing permit/concession regime for abstraction for agriculture. Also, there is no timeline for revising the Activities Decree.

**IPPC and other industrial installations**

The environmental permit for IPPC installations is subject to the provisions of the Environmental Management Law. In order to get an environmental permit, the best available technology needs to be applied. In addition, the permit review process includes an analysis based on a combination of the emissions as well as of the receiving water quality, where the environmental objectives of the BRMPs are the determining factor for the permit.

The RBMPs do not include explicit provisions requiring a review of the existing permit/concession regime for IPPC and other industrial installations in line with environmental objectives, but these are covered through the reference to the National Waterplan in the Decree environmental impact studies mentioned above.

**6.2 Relationship with other sectoral policy plans**

As stated above, in the context of the periodic preparation of the National Water Plan (every six years of which the RBMPs are a part, the other national, regional or local water plans are also revised (in accordance with the Water Law, art 4(8)). These plans include national management plans such as the Management and Development Plan for National Waters (that includes flood management plans), and regional management plans such as the provincial water plans or provincial spatial plans, as well as the water management plans of the water boards. This coordination of the preparation and periodic revision of the different policy and management plans ensures the coordination of the different measures that are included in the RBMPs.

Provinces can choose whether they develop a provincial or a regional water plan. In either case, the development of the provincial plan must take the National Water Plan into account.

Water boards draw up a water management plan regarding the waters under their management. These plans should be consistent with other water plans, including the National Water Plan.

Municipalities are not so-called water managers as defined by the Water Law but are responsible for several tasks related to water, which are described in their own plans, in particular the sewerage plans, that includes their responsibilities for groundwater. In certain cases, provinces can give instructions to municipalities regarding the execution of these tasks (as described in Article 49 of the Environmental Management Law), and with regards to land use plans, under the Law Spatial Planning. Municipalities develop and adopt local land use plans, but according to the Law Spatial Planning, the National Water Plan is considered a structural vision (as stated above) which with the local land use plans should be consistent.

In addition to the National Water Plan and its associated water plans and programs, there are a number of other plans in other policy areas that are relevant for water quality, in particular plans for environment, nature and spatial policy. The RBMPs makes reference to the following plans:
• The National Spatial Strategy (2005);
• The Future Environment Agenda (2006);
• Agenda for a Living Countryside (2005).

The most relevant programs are:

• Multi-annual program 2007-2013 Living Countryside (Ministry of Agriculture, 2006);
• Implementation Agenda Area 2006 (VROM, 2006);
• The Implementation diffuse sources (VROM, 2007).

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are the Ministry for Infrastructure and Environment, the provinces, Water boards and the municipalities.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences). Since the implementation of the water law in 2009 (integration of several previous laws) six different licenses have been transferred to one complete water permit. This permit covers all activities in the water system (all activities in surface waters, groundwater abstractions and infiltration). The form to request a permit can be submitted at the municipality or directly at the responsible authority.

The responsible authorities are: the water boards (regional waters and in some cases groundwater abstractions), the state, Rijkswaterstaat (state managed waters and in some cases groundwater abstractions), provinces (big groundwater abstractions/infiltrations). Which authority is responsible for permits for groundwater abstractions is described in the Water Decree.

The 2009 Decree on the quality requirements and monitoring of water (Bkmw 2009) stipulates that, in adopting the water management plan and the provincial water or spatial plan, the water management authorities and the provinces, respectively, take the environmental quality requirements of the WFD into account. These plans should, therefore, indicate what measures are being taken to meet these requirements. As regards chemical quality, current licensing policy, including mixing zones (i.e. the emission-immisssion test) for surface waters, and the existing general rules remain the starting point for assessing point sources. By periodically upgrading the state of the art in terms of best available technologies and best environmental practices – taking into account cost effectiveness and economic capacity of companies and sectors – and applying this in the source-oriented approach, total emissions and discharges in the
management area can be reduced, creating space for new activities and related emissions. In this way, economic activities are disconnected from the resulting environmental impact in an attempt to achieve environmental objectives. In the event of localised disproportionate growth of preferred activities, the management plan in question will indicate how these activities are or can be made compatible. If water conditions are insufficient as a result of environmental impact from existing inputs and these inputs cannot be reduced or not in time, this may mean that, for the time being, no permits will be granted for new inputs.

For the state managed waters Rijkswaterstaat keeps inventory of the permits through WAVE/WVO-INFO. Every water board keeps track of their own inventory. There is an ongoing project working on a shared national inventory.

**Authorities for different water users**

The authority responsible for permitting and licensing is not dependent on the activity for which the permit is requested in surface waters, it depends on spatial variability of the water body. For groundwater abstractions/infiltrations it depends on the size. For impoundments, point source discharges and hydromorphological alterations, it depends on the classification of the water body. There are no permits for diffuse pollution measures. Allowance of substances is arranged through generic national law.

**Coordination**

Several items make it likely that coordination between authorities must exist.

For example, the water law has an article on coinciding authorities in permit requests. If several authorities are relevant for a certain permit request, one takes charge based on some rules (level, geographical area). So that the user requesting the permit only comes into contact with one authority.

Also permit requests can be submitted at the municipality and is then automatically transferred to the competent authority.

Coordination is described in the Water decree.

**7.2 Permit applications**

The process for application for a permit is described below.

The permit requesting organisation has to fill out and submit an application form. The procedure follows these steps:

- Pre-consultation (not obligatory): the applicant describes the planned activities; the water manager (regulatory authority) gives information on the aspects to be taken into account.
- Submitting the permit application form (since 1 April 2012 this can be done online), the procedure starts once this has been received and registered by the water manager.
- The water manager elaborates a draft permit and deposits it for inspection (in several locations, via publication...). Stakeholders who don’t agree can submit their comments to the water manager.
• The water manager elaborates the definite permit and deposits it for inspection. Stakeholders who previously submitted complaints on the draft version of the permit and who still don’t agree have the option to submit their complaints at the board of appeal.

A short procedure exists, then immediately the definite permit is drafted.

The process applies for all water types and scales. Since the implementation of the water law in 2009 six different licenses have been transferred to one complete water permit. This permit covers all activities in the water system (all activities in surface waters, groundwater abstractions and infiltration).

So there are no differences in procedure or type of permit to ask depending on the scale or activity. Only the authority that is competent to deliver the permit changes (see above).

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management.

No information was found on mechanisms to minimise potential conflicts of interest.

7.3 Enforcement of permits: authorities

1. Enforcement of permits for activities concerning surface waters and groundwater:

As a general rule, the authority responsible for issuing a permit also enforces it. That is, the water law establishes that the level of authority that is responsible for management of a water body is also responsible for enforcement of the law’s provisions, including water related permits.

For activities affecting surface waters, it depends on the spatial classification of the water body. The state (i.e. the national level) is responsible for management of state waters (both ground- and surface water) and hence for enforcement of water related permits concerning state waters. The water boards are responsible for regional waters.

For groundwater abstractions/infiltrations, provinces for big groundwater abstractions and infiltrations, municipalities for small ones.

At national level, Rijkswaterstaat – an executive arm of the Ministry of Infrastructure and the Environment – is the management authority for state waters and issues more permits (see 1a below for some exceptions). Inspections of these permits are carried out by the national Inspectorate for environment and transport (ILT, Inspectie leefomgeving en transport), under the Ministry of Infrastructure and Environment.

2. Consolidation of permits

Since the implementation of the water law in 2009 (integration of several previous laws) six different permits have been transferred to one overall water permit. This permit covers all activities in the water system (all activities in surface waters, groundwater abstractions and infiltration).
The water boards are responsible for the management of regional waters (non-state waters) and hence for enforcement in these waters.

It is unclear if provinces and municipalities also have some partial responsibility for enforcement of ground water related permits: they are competent for issuing such permits, but are not the responsible authorities for managing groundwater systems, according to the water law.

For some activities more than one authority is competent for issuing licenses. For these cases some rules exist to assign the competence to a certain authority, in general to the higher authority. This authority is also responsible for enforcement of the license.

### 3. Industrial activity discharging in the municipal sewer system to an UWWT.

The permit (in order to allow the discharge of industrial waste water in the sewer system) is issued by the Water Board also operating the UWWT. Inspection of the permit requirements is carried out by a specific independent unit of the Water Board.

The enforcement authorities are articulated across several administrative levels:

- **State (national level):** The Inspectorate for environment and transport under the Ministry of the Infrastructure and the Environment.
- **The water boards (regional level)**
- **Provinces.**
- **Municipalities (local level)**

There are no separate authorities responsible for enforcement of different economic sectors.

As noted above, the main division is in terms of the classification of waters between state-managed and those managed by the water bodies.

Thus, for industrial activities (and also UWWT activities) discharging in State Managed waters: the discharge permit issued by Rijkswaterstaat, and inspection of the permit requirements is carried out by ILT. For industrial activities (and also UWWT activities) discharging in surface water managed by Water Boards: the discharge permit is issued by Water Board, and inspection of the permit requirements is carried out by a specific independent unit of the Water Board.

For mining: SODM, Staatstoezicht op de mijnen (State supervision of mines) also plays a role in enforcement for mines. SODM is part of the Ministry of Economic Affairs, Agriculture and Innovation.

The water boards take the lead on inspections for water use on farms.

For agriculture more generally: NVWA, Nederlandse Voedsel en Warenautoriteit (Netherlands Agriculture Inspection), under the Ministry of Economic Affairs, Agriculture and Innovation is in charge of enforcement of agricultural laws and general binding rules (in general, this involves rules that do not require water permits).

Municipalities take the lead on inspections specifically related to sewer systems.

There are no separate authorities responsible for the enforcement of different types of water-related permits.
7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
As noted above, there is only one “competent authority”, arranged through the water decree: in most cases, the authority providing the permit is accountable for enforcement.

Where there is a need for communication and coordination, informal contacts are usually strong. For example, the inspectors from the water boards in most cases have strong informal contacts with inspectors at municipal level. In general, strong informal contacts (sharing experiences concerning inspections of industrial installations) may lead to synergies (better controlling the discharges and emissions of the plant concerned).

Coordination between enforcement for water and for other areas is growing. Some facilities receive up to six different inspections a year, and to improve their work, enforcement authorities in practice have sought to carry out their inspections together. For example, water and environment inspectors may go to facilities for joint inspections. (This is facilitated by joint planning, as enforcement is usually planned in yearly programmes.)

In some cases, enforcement units at the same level are merging their offices. This, however, is a slow process. It is occurring mainly for water and environment inspectors - for agriculture inspectors, this is a question for the future as it will take a long time, since interests are different.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are not separate entities. The enforcement authorities are in the same level of government as the water managers, as stated by the water law. These are the state (for state waters) and the water boards for regional waters. The different water boards within one river basin district have to draft a water agreement on issues that exceed their individual authorities. For some activities more than one authority is competent. For these cases rules exist to assign the competence to a certain authority, in general this is the higher authority. Information on how coordination in practice, including links to enforcement, were not found.

One of the pillars of the National Water Plan is the cooperation among authorities. A National Water Consultation (nationaal wateroverleg), chaired by the state secretary of the Ministry of infrastructure and environment, brings together representatives of key competent authorities (provinces, water boards, communities and other relevant ministries). It is not clear, however, if this body has a role for enforcement practices.

7.5 Enforcement actions

7.5.1 Number of inspectors
Inspectors are employed in the national inspectorates, 12 provinces, 26 waterboards, 434 municipalities. An overview of all inspectors is not available.

ILT has some 1200 employees, 2/3 dealing with transport issues and 1/3 dealing with environmental, spatial, housing, industry and water issues.
7.5.2 Number of inspections
A national overview is not available.

IPPC: For IPPC inspections overall (i.e. not specifically in relation to water): 9,318 inspections were conducted in 2008 at IPPC installations. (IPPC enforcement study).

7.5.3 Number of infringement actions
A national overview is not available.

IPPC: For IPPC installations overall: 1426 offences were identified in 2008, of which 994 were given warnings, 169 administrative measures and 32 administrative payments were made. This refers to all IPPC offences: no information specifically on water-related offences. (Milieu IPPC study)

7.5.4 Other mechanisms (in addition to inspections)
Verification and audits are used as part of the IPPC inspection strategy in the province of North-Brabant. (IPPC enforcement study, based on Zo handhaven we in Brabant, actualisering handhavingsstrategie 2010’s Hertogenbosch – Groningen, September 2010, pp. 7-8)

For new developments an instrument called Watertoets (water notes), a kind of check on the effects of a proposed development on water, has been developed. Water authorities (RWS and water boards) have the right to advise the authorities responsible for permitting the development (mostly provinces and municipalities and sometimes a department).

Cooperative approaches are being tried especially for diffuse pollution, where enforcement instruments really do not exist. For example, drinking water companies have worked with farmers and financed programmes to help them reduce diffuse pollution.

Water authorities also take samples of discharges, as organisations have to pay fees for their discharges, and the samples are used to estimate the amounts to be paid. This gives the authorities an opportunity for permit compliance control.

E-PRTR reports provide further information, as well as national environmental reports produced by the larger industry firms.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation

Administrative sanctions

The Water law mentions that the water permit may be fully or partially withdrawn in following cases:

1/ If there is acted in controversy to the license and its conditions or if the valid legal regulations are not followed and

2/ if false information was declared to obtain the license.

(In the first case the license holder has time to comply with the law before the license is withdrawn.) This is an administrative sanction.
In a summary document on the water law drafted by the government, it is mentioned that the water managing authority can impose a penalty for violations. The dimensions of the penalty or the conditions are not specified.

**Criminal sanctions**

The Dutch criminal code is applicable for anyone who breaches the prescriptions of this law on Dutch territory. No information is given on the type of the sanctions nor on if the scale of the offense lead to different sanctions.

**7.6.2 Sanctions normally brought for water violations**

A range of measures are possible for enforcement of permits. At the first stage, discussions between inspectors and the permit violators are held. In many cases when a breach is identified, a formal notice is sent to the violator and a period of time is granted to come into compliance. This is checked in a second inspection. (This is the approach except for serious cases, where a sanction is directly applied. A range of sanctions are available, including setting specific requirements in a permit, and going as far as the withdrawal of permits.

**7.7 Strengths, weaknesses and changes to the enforcement system**

**7.7.1 Strengths of the system of inspections and enforcement**

Integration of the water laws into one water decree with one water permit.

Having one competent authority for licensing, inspection and enforcement.

One important strength is the long experience with water management in the Netherlands, and the country has developed a whole system of authorities, including water boards and offices at provincial and municipal level, for water management.

The inspection of permits is 'quite strong'. This includes agricultural point sources where a license is required.

**7.7.2 Weaknesses of the system of inspections and enforcement**

The long experience and articulated system of authorities is also a weaknesses: with the many officials and authorities, it is not always clear who has responsibility for addressing specific problems.

Coordination could be further improved.

What is really difficult is addressing diffuse pollution, as this in general cannot be regulated with licenses. Moreover, it is difficult to identify the specific source, for example in a case of pesticide pollution of a water body. Water boards and municipalities have held discussions with farmers on measures to be taken (i.e. beyond legal requirements), but this can be difficult, especially where there are costs incurred.

More generally, authorities don't have the proper policy instruments to address diffuse pollution. A further problem is that there is accumulated pollution in soil and in the beds of water bodies.

One area where the Netherlands has taken a step backwards is in the review and enforcement of government actions. ILT used to carry out 'inspection research' on
authorities responsible for the activities prescribed by the Water Framework Directive and IPPC: Rijkswaterstaat, provinces, water boards and municipalities. This type of inspections stopped in 2011. Inspection of WFD activities has been replaced by monitoring the progress by the department and by comparing published information (e.g. in 2015 when the next generation of RBMP arte to be published). Essentially, in 2015 this will be limited simply to a monitoring activity.

A further weakness is that inspectors 'are not really independent'. The ministry must approve a penalty set by the national inspectorate. Some inspectors are under the water boards - and typically, about half of the board members come from the agriculture sector. In this area, a slow change can be seen, as farmers had stronger influence in previous decades.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is thought that the RBMPs have strengthened enforcement.

The 2009 Decree on the quality requirements and monitoring of water (Bkmw 2009) stipulates that, in adopting the water management plan and the provincial water or spatial plan, the water management authorities and the provinces, respectively, take the environmental quality requirements of the WFD into account. These plans should, therefore, indicate what measures are being taken to meet these requirements. As regards chemical quality, current licensing policy, including the emission-immission test for surface waters, and the existing general rules remain the starting point for assessing point sources. By periodically upgrading the state of the art in terms of best available technologies and best environmental practices – taking into account cost effectiveness and economic capacity of companies and sectors – and applying this in the source-oriented approach, total emissions and discharges in the management area can be reduced, creating space for new activities and related emissions. In this way, economic activities are disconnected from the resulting environmental impact in an attempt to achieve environmental objectives. In the event of localised disproportionate growth of preferred activities, the management plan in question will indicate how these activities are or can be made compatible. If water conditions are insufficient as a result of environmental impact from existing inputs and these inputs cannot be reduced or not in time, this may mean that, for the time being, no permits will be granted for new inputs.
8 References

“Beheer- en Ontwikkelplan voor de Rijkswateren 2010-2015”

Brochure “The water law – brief summary” from the ministry of Infrastructure and Environment

Brochure “The water law and the law on general provisions of the surroundings” from the ministry of Infrastructure and Environment


Document “Guidebook surroundings permit, module on enforcement” drafted by the ministry of housing, spatial planning en environment (now the ministry of infrastructure and environment) (Wegwijzer omgevingsvergunning, module handhaving, 2007)

Form for requesting a water permit “Aanvraagformulier watervergunning versie 2.2” downloaded from website “Helpdesk water”.

http://www.helpdeskwater.nl/onderwerpen/water-ruimte/watertoetsproces/

http://www.infomil.nl, central information desk for law and policy on the area of the environment.

Interviews with IMPEL and SCG officials

IPPC enforcement study (Milieu Ltd, Provisions on penalties related to legislation on industrial installations, 2011, for DG Environment)

Monitoring portal: website with relevant information of environmental monitoring (realized by the provinces and supported by several ministries, will go off-line June 1st 2012) http://www.monitoringportaal.nl/index.php

The National administration agreement water from April 2011 “Het Nationaal Bestuursakkoord Water”

The national water plan “Het Nationaal Waterplan 2009-2015”

http://www.overheid.nl/ the central access point to all information about government organizations of the Netherlands (via a subpage of this website all Dutch texts of law can be accessed http://wetten.overheid.nl/zooeken/)

RBMPs 2009 – 2015 for the Ems, Scheldt, Meuse and Rhine

The Water law (Wet van 29 januari 2009, houdende regels met betrekking tot het beheer en gebruik van watersystemen (Waterwet))

Website of the association of drinking water companies (http://www.veWin.nl/Drinkwater/Pages/default.aspx)

Website “Helpdesk water” from Rijkswaterstaat http://www.helpdeskwater.nl/

The website of the knowledge Centre Europe decentral” http://www.europadecentraal.nl/
The website of the Ministry of Infrastructure and the Environment (http://www.rijksoverheid.nl/ministeries/ienm)

The website of Rijkswaterstaat, the institution responsible for development and management the national roads and waterways network, under the authority of the ministry of Infrastructure and Environment (http://www.rijkswaterstaat.nl/)

Website on the “Surroundings permit” (omgevingsvergunning), as defined by the Law on general provisions of the surroundings (Wet algemene bepalingen omgevingsrecht). http://www.omgevingsvergunning.nl/ (updated until June 2011)

Werkprogramma Stroomgebiedbeheerplannen 2015 (now under consultation cf WFD art 14).
1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Environment, National Water Management Board</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Chief Sanitary Inspectorate</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Inspection for Environmental Protection (&amp;</td>
<td></td>
</tr>
</tbody>
</table>
The main competent authorities responsible for the implementation of the WFD are:

- PLKZGW (National Water Management Board)
- Regional Water Management Boards:
  - PLKR (Director of the Regional Water Management Board in Cracow)
  - PLWR (Director of the Regional Water Management Board in Wroclaw)
  - PLGL (Director of the Regional Water Management Board in Gliwice)
  - PLWA (Director of the Regional Water Management Board in Warsaw)
  - PLGD (Director of the Regional Water Management Board in Gdansk)
  - PLPO (Director of the Regional Water Management Board in Poznan)
  - PLSZ (Director of the Regional Water Management Board in Szczecin)

In accordance with Article. 4 of the Act of 18 July 2001 - Water Law, the main bodies competent in matters of water management are: relevant High Level: Minister responsible for water management, CEO of the National Water Management Board - central governmental organisation body responsible for water management, Minister of Infrastructure - marine environment -and Ministry of Agriculture and Rural Development, Ministry of Economy, Ministry of Health. Regional Level: Directors of Regional Water Management Boards, Chief Sanitary Inspectorate, Governors of districts, Voivodship Inspectorate for Environment Protection, Voivodship Sanitary Inspectorates, Directors of the Voivodship Meliorant and Water Structures Authority, Marshalls, Directors of Maritime Authority and Directors of Inland Waterways.

Ministry of Agriculture and Rural Development is responsible for agriculture. Ministry of Environment is responsible for water resources and its use, implementation of water management plans, RBMP, international cooperation re transboundary waters, maintenance of surface waters, floods, droughts. CEO of National Water Management Board is responsible for development of draft management plans for the river basin, water and environment programmes for the country, draft plan for flood protection and counteract the effects of drought in the country, including the sharing of river basins, agree project terms of water use the water of the region, conducts water cadastre for the area of the state, including the sharing of river basins etc. Directors of Regional Water Management Boards are only responsible for certain parts of a basin. E.g. Regional Water Management Board in Warsaw is responsible for the following water bodies: Jarft, Świeżej, Łyny i Węgorapy, Niemna and the central (middle) part of the Vistula. The split between Regional Water Management Boards has been shown on the picture on [http://www.warszawa.rzgw.gov.pl/en/?skipcheck](http://www.warszawa.rzgw.gov.pl/en/?skipcheck). Chief Sanitary Inspectorate is the central organ of government, appointed to monitor compliance with environmental legislation and environmental studies, supervised by the MoE. Marshalls reports to CEO of National Water Management Boards. Governors reports to Directors of Water Management Boards. Melioration board are reporting to the marshals.
1.1 Division of responsibilities

There are different authorities responsible for implementing the requirements of the directive for different water categories (groundwater, lakes, rivers, transitional etc.). The Minister of Infrastructure is specifically responsible for marine waters. The CEO of the National Water Management Board is responsible for rivers, lakes and groundwaters. However other institutions are responsible for all the water categories on different administration-responsibility levels. There are also specific committees responsible for international co-operation. (Compliance check)

Other institutions are also responsible for those water categories on different administration-responsibility level e.g. Regional Water Management Boards will have similar responsibilities for sub-basins as National Water Management Board (NWMB). However NWMB will have overall responsibility for the Vistula, Odra etc. RBDs.

The authorities responsible for implementing the requirements of the directive for the different water categories are outlined below (Table 2).

Table 2: Summary of authorities responsible for implementing the requirements of the WFD for the different water categories

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>CEO of the National Water Management Board</td>
</tr>
<tr>
<td>Lakes</td>
<td>CEO of the National Water Management Board</td>
</tr>
<tr>
<td>Transitional</td>
<td></td>
</tr>
<tr>
<td>Coastal</td>
<td>Minister of Infrastructure</td>
</tr>
<tr>
<td>AWBs</td>
<td></td>
</tr>
<tr>
<td>Groundwaters</td>
<td>CEO of the National Water Management Board</td>
</tr>
</tbody>
</table>

The authorities involved in coordination are described below.

CEO of National Water Management Board reports to MoE. He coordinates with the following institutions: MoE, Ministry of Agriculture and Rural Development, Ministry of the Economy, Ministry of Health, Ministry of Infrastructure, Chief Sanitary Inspectorate, Chief Environmental Protection Inspector, and regional institutions. Directors of Regional Water Management Boards reports to CEO of National Water Management Board and are only responsible for certain parts of a basin. Chief Sanitary Inspectorate is the central organ of government, appointed to monitor compliance with environmental legislation and environmental studies, supervised by the MoE. Marshalls reports to CEO of National Water Management Boards. Governors reports to Directors of Regional Water Management Boards. Information on e.g. regular meetings between the organisations, workshops, regulations/guidance handed down, was not found.
1.2 Authorities involved in preparing and approving the RBMPs

The CEO of the National Water Management Board is responsible for development of draft management plans for the river basin, water and environment programmes for the country.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

Chief Sanitary Inspectorate is the central organ of government, appointed to monitor compliance with environmental legislation and environmental studies, supervised by the MoE. No further information found.

3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 3).

Table 3: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>The CEO of the National Water Management Board is responsible for the UWWTD.</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>(no information)</td>
</tr>
<tr>
<td>Bathing Waters Directive</td>
<td>(no information)</td>
</tr>
<tr>
<td>Drinking Water</td>
<td>The Department of Water Health Safety is a department of the Chief</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority. The CEO of National Water Management Board reports to MoE. He coordinates with the following institutions: MoE, Ministry of Agriculture and Rural Development, Ministry of the Economy, Ministry of Health, Ministry of Infrastructure, Chief Sanitary Inspectorate, Chief Environmental Protection Inspector, and regional institutions. Directors of Regional Water Management Boards reports to CEO of National Water Management Board and are only responsible for certain parts of a basin. Marshalls reports to CEO of National Water Management Boards. Governors reports to Directors of Regional Water Management Boards. Information on e.g. regular meetings between the organisations, workshops, regulations/guidance handed down, was not found.

### 3.2 Integration with other sectors
The responsible authorities for each driver / sector are named in the table below (Table 4).

**Table 4: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Agriculture and Rural Development is responsible for agriculture.</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water &amp; Wastewater</td>
</tr>
<tr>
<td></td>
<td>(no information)</td>
</tr>
<tr>
<td>Energy</td>
<td>(no information)</td>
</tr>
<tr>
<td>Transport</td>
<td>The Minister of Infrastructure is responsible for navigation and maritime areas, ports and marinas.</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC &amp; Non IPPC</td>
</tr>
<tr>
<td></td>
<td>(no information)</td>
</tr>
<tr>
<td>Mining</td>
<td>(no information)</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority. The CEO of National Water Management Board reports to MoE. He coordinates with the MoE, and the Ministry of Infrastructure.

4 Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation
Public participation in adoption of the RBMPs is specifically regulated by the WLA, while regarding the public participation in preparation of the PoM, the WLA refers to the general rules of organising the public participation provided by the Act on access to environmental information, public participation in environmental protection and on environmental impact assessments (EIAA).

As far as the RBMPs are concerned, Art. 119.7 of WLA provides that the President of the National Water Management Board while preparing (reviewing, updating) the RBMPs shall ensure the possibility for active participation of all interested persons. To this end the President shall inform the public about:

- a timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, at least three years before the beginning of the period to which the plan refers;
- an interim overview of the significant water management issues identified in the river basin, at least two years before the beginning of the period to which the plan refers;
- draft copies of the river basin management plan, at least one year before the beginning of the period to which the plan refers.

Regarding the forms (manners) of informing the public, the WLA refers to the EIAA. The latter Act specifies places where the information shall be placed (e.g. on the website of the authority in charge, in the newspaper, on the noticeboards etc.).

The public has then six months to submit the written comments (Art. 119.9 of WLA).

WLA ensures the possibility for participation for the general public (any interested persons, groups or entities) and does not foresee any special forms of consultations for specific groups of stakeholders.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
No information found on whether any new authorities have been created or significant changes made to existing authorities as a result of the WFD.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

As mentioned above, formally the RBMPs are internal acts only (binding on the authorities and bodies subordinated to the Council of Ministers). However, there are specific provisions which indicate for which planning documents and individual decisions the RBMPs have a binding effect.

Drafts of the RBMPs (plany gospodarowania wodami na obszarze dorzeczy) are prepared by the President of the National Water Management Board. The RBMPs are then adopted by the Council of Ministers by the way of a resolution and published in the Official Journal of the Republic of Poland "Monitor Polski" (Art. 90.1.1a and 119.3.1 of WLA).

The national PoM (as referred to in Art. 11 of the Water Framework Directive), called in Poland “national water environmental programme” (program wodno-środowiskowy kraju) is prepared by the President of the National Water Management Board in consultation with the Minister of Environment (Art. 19.1 of WLA). Neither the Water Law Act (WLA) nor other provisions of law foresee any specific legal form for the PoM (such as decision, order etc.). Neither the official publication of PoM is required. In practice it is published on the National Water Management Board’s website.

6.1.1 Legal effect

As mentioned above, the RBMPs are adopted by the Council of Ministers by the way of resolution and published in the Official Journal of the Republic of Poland "Monitor Polski".

According to Article 93.1 of the Polish Constitution, the resolutions of the Council of Ministers are internal acts binding on the authorities and bodies subordinated to that Council.

However, the specific provisions of Polish law provide for instances when the RBMPs are binding on other planning acts or individual decisions (see below).

According to Art 118 of WLA, RBMPs (and not only the “environmental objectives”) are binding on:

- the land use plans prepared on the national, regional and local level,
- regional development plans (strategia rozwoju województwa).

This means than the above plans have to fully align with the RBMPs.

The land use plans prepared on the local level are then binging on individual decisions issued within the investment process (such as construction permits). However, it shall be stressed that it is not obligatory for local communities to adopt local land use plans and only about 20% of the country is covered by such plans.

Specific provisions of the WLA and the EIAA provide that RBMP (or only environmental objectives) are binding on certain individual decisions, namely:

- water-law permit (pozwolenie wodnoprawne) - issued on the basis of the WLA; according to Art. 125.1 of the WLA, the competent authority shall refuse the water-
law permit in case when it violates the RBMP (and not only the “environmental objectives”);

- “EIA decision” (decyzja o środowiskowych uwarunkowaniach) - issued on the basis of the EIAA; according to Art. 81.3 of EIAA, the competent authority shall refuse the EIA decision in case when EIA procedure shows that the project may jeopardize the achievement of the environmental objectives set by the RBMP (thus, in this case only the environmental objectives and not the entire RBMP are mentioned).

The water-law permit is required i.a. for:

- Water abstraction;
- Discharge of wastewater into water or into ground;
- Discharge of wastewater into the sewage system - if the wastewater contains “dangerous substances” (the list of such substances is provided by a regulation of the Minister of Environment);
- Transfer or water resources;
- Holding or storing water;
- Using water for energy purposes;
- River regulation works.

The EIA decision is to be issued for projects subject to EIA requirements (as required by the EIA Directive). The EIA decision is then required for a developer to apply for subsequent decisions needed to start the project (e.g. for a construction permit, a concession for extraction of mineral resources etc.).

6.1.2 Legal status in relation to individual decisions

Polish law does not contain any provisions stating that RBMP is binding on other individual decisions (apart from the aforementioned water-law permits and EIA decisions).

Polish law does not provide for any requirement to review the existing permits/decisions in line with environmental objectives.

However, the majority of water-law permits is issued for the period of 10 years (and the permits for discharge of wastewater containing “dangerous substances” into the sewage system - for four years). This means that after the previous permit expires, the new one will be issued only after stating that it will be in line with the RBMP.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Under Polish law all hydropower installations require:

- water-law permit (renewed every 10 years);
• EIA decision (issued once before the hydropower installation is constructed).

As mentioned above, the competent authority shall take into account the RBMP while issuing the water-law permit.

Similar requirement applies to the EIA decision, however, the hydropower installations are subject to individual EIA screening during which the competent authority decides whether the EIA procedure is needed or not. In case when it decides to carry out the EIA (and issue the EIA decision “with the EIA”), the environmental objectives of the RBMP will be considered and - if the construction of a hydropower installation could jeopardize them - the EIA decision will be refused and consequently the hydropower installation will not by constructed.

However, when the competent authority decides not to carry out the EIA (in such a case the EIA decision is issued but states only that the EIA procedure is not required), the environmental objectives of the RBMP will not be considered (according to Art. 81.3 of EIAA, the environmental objectives are to be considered only within the EIA procedure).

**Abstraction for agriculture**

Any abstraction of water requires water-law permit (renewed every 10 years).

As mentioned above, the competent authority shall take into account the RBMP while issuing such a permit.

**IPPC and other industrial installations**

Under Polish law the industrial installations require:

• in case they are subject to EIA requirements (and most of them are) - an EIA decision (issued once before the installation is constructed);

• in case there the installation discharges wastewater or abstracts water - also a water-law permit (for IPPC installations the elements of water-law permit are included into an integrated permit).

As mentioned above, the competent authority shall take into account the RBMP while issuing the water-law permit (IPPC permit) and the EIA decision.

**6.2 Relationship with other sectoral policy plans**

As mentioned above, according to Art 118 of WLA, RBMPs (and not only the “environmental objectives”) are binding on:

• the land use plans prepared on the national, regional and local level,

• regional development plans (strategia rozwoju województwa).

The land use plans prepared on the local level are then binging on individual decisions issued within the investment process (such as construction permits). However, it shall be stressed that it is not obligatory for local communities to adopt local land use plans and only about 20% of the country is covered by such plans.

There is no requirement to review the existing plans in order to align them with RBMP.
The authorities responsible for adoption and implementation of the RBMPs (i.e. the President of the National Water Management Board and Directors of the Voivodship Water Management Boards) are responsible also for adoption of:

- Flood risk management plans,
- National Programme of Urban Waste Water Treatment,

- although there are no provisions of law regulating the relationship of those plans and the RBMPs.

The authorities responsible for adoption and implementation of the RBMPs are not involved in preparation of other plans than those abovementioned (i.e. land use plans, regional development plans and plans which are prepared by these authorities themselves).

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

No information found.

7.2 Permit applications

No information found.

7.3 Enforcement of permits: authorities

The Inspection for Environmental Protection is the lead authority for environmental enforcement in Poland. It is an independent body under the Ministry of Environmental Protection. The inspection has 16 regional (voivodship) inspectorates.

The Inspection for Environmental Protection has regional offices.

There are no separate authorities responsible for enforcement of different economic sectors or different types of water-related permits.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities

No information found (however, see below).

7.4.2 Between enforcement and water management authorities

The enforcement authorities and water management authorities are not separate entities. The Ministry of Environmental Protection is the lead national authority for water management (including through the National Water Management Board under the Ministry), and the Ministry also oversees the work of the National Inspection for Environment. Coordination mechanisms. In general all environmental tasks are in the
competences of the Ministry of Environment (ME). The basic tasks of the Inspection for Environmental Protection include control of compliance with environmental legislation, while water management is in the competences of the Water Management Boards. Therefore all these environmental authorities are supervised by the ME.

7.5 Enforcement actions

7.5.1 Number of inspectors
In 2010 there were 715 (FTE) inspectors working in Inspection for Environmental Protection, 665 inspectors worked in 16 regional Inspectorates and 50 inspectors in the Chief Inspectorate for Environmental Protection. There are no numbers available as for specialisation of inspectors (e.g. water, waste), as many inspectors cover more than one specialisation.

7.5.2 Number of inspections
Across all areas of its work, the Inspection for Environmental Protection carried out just under 30,000 controls in 2010, of which almost 17,000 were on-site inspections (the remainder were document controls). There were 9974 planned controls of entities and 4775 unplanned; the rest are document controls and transport controls. There is no separate registration based on subject of control available, but there is a registration which presents EU directives which have been controlled. Among the 34 directives controlled by environmental inspectors there are six water related. Please find attached information on the aforementioned water-related directives.

7.5.3 Number of infringement actions
Across all areas of its work, the Inspection for Environmental Protection identified over 9000 infringements in 2010 (almost 50% of these were identified as ‘category 1’, infringements of documentation and similar requirements without direct impact on the environment).

7.5.4 Other mechanisms (in addition to inspections)
To monitor if conditions of use of environment stated in the permit are met, the operator of an installation is obliged to carry out measurements of emission levels, which should be submitted to the environmental authority and voivodship inspector of environmental protection with a given frequency and format. The voivodship inspector carries out document control to verify the measurements and compare them with permit limits. Where the control carried out indicates that the emission standards have been exceeded, the inspector imposes administrative fines on the operator.

Other mechanisms which facilitate monitoring if conditions of the permit are met by the operator are internal and external audits of the environmental management system ISO 1400, which has been implemented in many companies.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
In Poland, both administrative and criminal sanctions can be brought for violations of environmental law, including those related to water permits.

Administrative fines can be imposed by regional (voivod) inspectors for environmental protection pursuant to art.298 and the subsequent articles of the Environmental Protection Law (Prawo Ochrony Środowiska, Dz.U. z 2008 nr 25 poz.150). This Law
specifies in which cases such administrative fines can be imposed and includes detailed provisions on the amount of the fines can also be found in the EPL. For example, pursuant to art. 309 of the EPL, if someone takes water exceeding the conditions of the permit, the amount of the fine shall be 10 times the unit rate charge (‘jednostkowa stawka opłat’). Pursuant to art. 310, the maximum amount of administrative fines is 984 PLN per kg (about 230 Euros/kg) if the breach relates to the amount of wastewater; for wastewater where there has been a breach of permissible temperature, the pH level, the level of artificial radioactive substances or the limit of the dilution of sewage effluent to eliminate toxic effect on fish, the amount is 10 PLN per 1m$^3$.

Besides the aforementioned administrative fines, pursuant to art. 367 of the Environmental Protection Law (Prawo Ochrony Środowiska, Dz.U. z 2008 nr 25 poz.150) in the event where the user of the environment releases substances or energies into the environment without the required permit or in violation of its conditions, by way of a decision, the Voivodship Inspector for Environmental Protection may stop the use of the installation.

Criminal sanctions are set in the Water Law (Prawo Wodne, Dz.U. z 2012 poz.145). The criminal acts and sanctions it sets out include the following:

Pursuant to art.189, anyone who, contrary to art. 33, prevents or hinders the use of water to control major accidents, natural disasters, fires or other local hazards or hinders to prevent serious danger to life, limb or property of substantial value shall be liable to fines or imprisonment up to one year. If the action has led to death or serious harm to human health or the environment, the penalty shall be fines or imprisonment up to five years.

Pursuant to art.190, anyone who, contrary to art. 65, 88n and 107, in the proximity of measuring devices or water works, performs activities that threaten these devices, shall be liable to fines or imprisonment up to one year. If the offence is serious, the penalty shall be fines or imprisonment up to 2 years.

Pursuant to art.191, anyone who destroys or damages the banks of inland surface waters or the bed of inland surface waters or impedes the water flow in the exercise or maintenance of water facilities shall be liable to a fine or imprisonment up to one year.

Pursuant to art. 192, anyone who without a water permit or in breach of the provisions of such a permit uses water or performs water activities or other activities requiring a water permit, shall be liable to a penalty of arrest, imprisonment or a fine. The same applies to anyone who does not perform the duties specified in a decision revoking or withdrawing a water permit.

Pursuant to art. 193, anyone who does not maintain water facilities or the proper water level is liable to a fine.

Pursuant to art. 194, anyone who changes the water level; fences properties adjacent to public surface waters at a distance less than 1.5 m from the bank; does not provide necessary data to conduct water cadastre; uses wastewater contrary to the law; does not use the necessary means or species of agricultural and forest crops in the strip of land adjacent to a shore line; does not indicate the boundaries of direct and indirect protection of water intakes; does not apply the prohibitions, orders and restrictions in force in the protection zone, nor water intake protection zone of measuring devices;
destroys, breaks or moves water intake protection or protection zone signs or measuring instruments; performs in flood hazard areas works or activities impeding protection against flooding, increasing the risk of flooding or pollution of water; moves measuring devices without the authorisation of state services, is liable to a fine.

The Act on the Liability of Collective Entities, adopted in October 2002, addresses legal persons and provides for sanctions for certain serious environmental offences against the environment. (Milieu IPPC study, based on the Environmental Protection Law (EPLA) as well as various sector-specific legislation, such as the Waste Act and the Water Law Act; the Criminal Code, the EPLA, the Water Law Act, the Waste Act and the Nature Protection Act).

7.6.2 Sanctions normally brought for water violations
No information found.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
The following strengths of the inspection system can be listed:

- The possibility to apply various post-inspection orders, including sanctions results in undertaking more environmental activities by the operators, to raise environmental awareness and to comply with environmental regulations. This is reflected in the data, which shows less controls with major infringement (as explained in Q 6 – most infringements are from category 1). It has also been noted that gradually the number of administrative fines for lack of measurements is decreasing, whereas sanctions for exceeding the limits are applied. This indicates that the operators carry out auto monitoring measurements of emissions on the levels and frequencies stated in the regulations and administrative decisions.

- Effective enforcement is supported by a consolidated administrative jurisdiction in force in Poland.

- There is a special mechanism of postponement of administrative fines in use, which enables operators to carry out wastewater investments, effectively removing the causes of fines applied.

There is a standardised system of environmental control in place in all voivodship (regional) inspectorates (basing on the IT Control Support System). Inspectorates are equipped with IT and measurement equipment which enables inspectors to document control findings on-site, which improves the efficiency of inspections and keeps the number of inspections carried out yearly on the same level, even though the number of inspectors decreases.

7.7.2 Weaknesses of the system of inspections and enforcement
Insufficient number of inspectors on regional level, especially given the high number of infringements of category 3 (danger to the environment) and category 4 (direct pollution of environment): these have been in introducing dangerous substances to the water environment.
7.7.3 Influence of the WFD and the RBMPs on enforcement
No information found.
8 References

Competent authorities and

Compliance check of RBMPs - 'assessment of RBMPs' questionnaires (1. Governance) for the PL RBDS.


Environmental Protection Law (Prawo Ochrony Środowiska, Dz.U. z 2008 nr 25 poz.150).

Główny Inspektor Ochrony Środowiska, Informacja o realizacji zadań Inspekcji Ochrony Środowiska w 2010 roku (Chief Inspector of Environmental Protection, Information about the tasks the Environmental Protection Inspectorate in 2010) and Internal register OŚ-2B (yearly report on the control activities of the voivodship inspectorates for environmental protection).

Internal information of Chief Inspectorate for Environmental Protection.

Legal acts:


- Act of 3 October 2008 on access to environmental information, public participation in environmental protection and on environmental impact assessments (OJ No 199 item 1227 as amended) - Ustawa z dnia 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko (Dz. U. Nr 199, poz. 1227 ze zm.) - EIAA

Official webpages:


RBM plan section 13 (p.225).


WISE summary reports for PL, chapter 1 (governance).
1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry for Agriculture, Maritime Affairs, Environment and Regional Planning (Continental Portugal), Regional Secretariat of Environment and the Sea (Azores), Regional Directorate of Environment (Madeira)</td>
<td>Portuguese Environment Agency (APA) (Continental Portugal), Regional Secretariat of Social Equipment, Port Administration (Madeira)</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Portuguese Environment Agency (Continental Portugal), Regional Secretariat of Environment and the Sea (Azores), Regional Directorate of Environment (Madeira)</td>
<td>Basin District Councils (Continental Portugal)</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Portuguese Environmental Agency (Continental Portugal), Regional Secretariat of Environment and the Sea (Azores)</td>
<td>Portuguese Institute of Sea and Atmosphere (Continental Portugal), universities</td>
</tr>
<tr>
<td>Permitting</td>
<td>Portuguese Environment Agency, General Direction of Natural Resources, Maritime Safety and Services, Captain of the Port (Continental Portugal), Regional Secretariat of Environment</td>
<td></td>
</tr>
<tr>
<td>Area of WFD-related responsibility</td>
<td>Competent Authority / main coordinating authorities</td>
<td>Supporting authorities</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>--------------------------------------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>and the Sea (Azores),</td>
<td>Portuguese Environment Agency,</td>
<td></td>
</tr>
<tr>
<td>Regional Directorate of Environment,</td>
<td>General Direction of Natural Resources, Maritime Safety and Services, Captain of the Port, National Republican Guard, General Inspectorate of Agriculture, Sea, Environment and Territorial Planning (Continental Portugal),</td>
<td></td>
</tr>
<tr>
<td>Port Administration (Madeira)</td>
<td>Regional Secretariat of Environment and the Sea, Regional Inspectorates (Azores),</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Regional Directorate of Environment, Port Administration, Regional Inspectorates (Madeira)</td>
<td></td>
</tr>
</tbody>
</table>

The main competent authorities responsible for the implementation of the WFD are described below.

The structure of the Portuguese Government (Continental Portugal) changed substantially following the elections in July 2011. The Ministry for Agriculture, Maritime Affairs, Environment and Regional Planning (MAMAOT) is presently the government body in charge of defining and coordinating policies related to water (including coastal waters), as well as farming and fisheries. Its organic law approved by DL 7/2012, of 17 January establishes the extinction of the Portuguese Water Institute (that was the Portuguese water authority) and the River Basin District Administrations (that were responsible for the elaboration of the River Basin District Management Plans (RBMP)) which are integrated under the new Portuguese Environment Agency (APA I.P). The organic structure of APA (Decree Law n° 56/2012, of 12 March) establishes that APA is the Portuguese Water Authority and concentrates all the functions of the 5 River Basin Districts Authorities of Continental Portugal that had been created in 2007. APA IP, is an institute enjoying administrative and financial autonomy and its own patrimony. The competences of the RBDA of Azores autonomous region have been approved by Regional Regulatory Decree 23/2011/A which establishes that the Competent Authority is the Regional Secretariat of Environment and the Sea. The competences of the RBDA of Madeira autonomous region have been approved by Regional Legislative Decree 33/2008/M which establishes that the Regional Water Authority is the Regional Directorate of Environment, and that the coastal zone and safety issues (floods, safety and security related to dams) are administered by the Regional Secretariat of Social Equipment, except in ports in which the authority is the Port Administration of the Autonomous Region of Madeira.
No RBDMP were published so far in Portugal. According to the Portuguese Water Institute website all the 8 BRDMP of Continental Portugal and the RBDMP of the Azores started Public Consultation in the second semester of 2011. Only the public consultation phase of the Sado e Mira (RDB6) and Guadiana (RBD7) have been concluded in 15 January 2012, and the Tejo (RBD5) in 8 February 2012. However none is published yet. No information on the RBDMP of Madeira could be found. However, in an interview dated August 2011 (found on internet), the regional director of environment announced the beginning of the elaboration of the RDBMP.

### 1.1 Division of responsibilities

It is not clear whether there are different authorities responsible for implementing the requirements of the directive for different water categories (groundwater, lakes, rivers, transitional etc.). This is unclear mostly due to Madeira (RBD10) and for transitional and coastal waters in continental Portugal. For continental Portugal, the water authority is the Portuguese Environmental Agency. Besides, the MAMAOT integrates the recently created General Direction of Natural Resources (refers to maritime), and Maritime Safety and Services (DGRM), that assures the regulation, inspection, surveillance, coordination and control of the activities in the domains of protection of marine resources, fisheries, aquaculture, maritime and ports safety. The former Institute of Ports and Maritime Transport ceased to exist, and its functions were distributed by different entities, namely the DGRM and the Portuguese Institute of Sea and Atmosphere among others. Monitoring of coastal zone and transitional waters might be undertaken by the recently created Portuguese Institute of Sea and Atmosphere (that integrates the functions of previous institutions, including the one dealing with this issue before). In the case of Azores, also only one authority: the Regional Secretariat of Environment and the Sea In the case of Madeira, there might be more than one agency (no RBDMP draft available yet).

In continental Portugal, it is not possible at this point in time to ascertain how the responsibilities are going to be shared, as there is an ongoing reorganization of ministries and bodies and not all the organics are published yet. In the case of the Portuguese Environmental Agency their statutes are not published yet. In the case of Madeira, as the RBDMP is not yet finalized or in public consultation it is not possible to say.

The authorities responsible for implementing the requirements of the directive for the different water categories are outlined below (Table 2).

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>In continental Portugal: Portuguese Environmental Agency In Azores: Regional Secretariat of Environment and the Sea In Madeira: Regional Directorate of Environment</td>
</tr>
<tr>
<td>Lakes</td>
<td>In continental Portugal: Portuguese Environmental Agency In Azores: Regional Secretariat of Environment and the Sea In Madeira: Regional Directorate of Environment</td>
</tr>
<tr>
<td>Water Category</td>
<td>Authorities</td>
</tr>
<tr>
<td>----------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Transitional</td>
<td>In continental Portugal: Portuguese Environmental Agency, but maybe DGREM and Portuguese Institute of Sea and Atmosphere might also be involved. In Azores: Regional Secretariat of Environment and the Sea In Madeira Regional Directorate of Environment and maybe the Regional Secretariat of Social Equipment</td>
</tr>
<tr>
<td>Coastal</td>
<td>For continental Portugal licensing in coastal zone (offshore and onshore) is of the responsibility of DGREM, while the Captain of the Port (Portuguese Navy) licenses vessels and authorizes sport or cultural events occurring at beaches or at sea. DGREM also has important functions on the implementation of other aspects of WFD. Monitoring of coastal zone, and transitional might be undertaken by the recently created Portuguese Institute of Sea and Atmosphere (that integrates the functions of previous institutions). For Madeira the implementing authority might be the Regional Secretariat of Social Equipment, except in ports in which the authority is the Port Administration.</td>
</tr>
<tr>
<td>AWBs</td>
<td>In continental Portugal, there might be a sharing of responsibility the Portuguese Environmental Agency, the Portuguese Institute of Sea and Atmosphere, and the DGREM. In Madeira RBD there might be a sharing of responsibilities between the Regional Secretariat of Social Equipment and the Regional Directorate of Environment.</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>In continental Portugal: Portuguese Environmental Agency In Azores: Regional Secretariat of Environment and the Sea In Madeira: Regional Directorate of Environment</td>
</tr>
</tbody>
</table>

There is no information on whether co-ordination among the different authorities for the management of different water categories is formalised.

1.2 Authorities involved in preparing and approving the RBMPs

In continental Portugal the authorities responsible for the preparation of RBDMP were 5 RBD authorities. The Portuguese Water Institute and the Basin District Councils played also roles, respectively of technical assistance when needed and advise. The Portuguese Environmental Agency absorbed the competencies of the first two, so it will be responsible for the final approval and implementation of the RBDMP. The Basin District Councils will continue to exist with an advisory role, but their competencies, composition and functioning will be published in a specific legal act (yet to be published). In the Azores autonomous region the authority is the Regional Secretariat of Environment and the Sea. In Madeira autonomous region the authority is the Regional Directorate of Environment.

Coordination mechanisms to deal with multiple authorities are not clear at this stage.
1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.

The Portuguese Water Institute (INAG) has been coordinating since 1995 the water monitoring networks of continental Portugal, and coordinates the National Water Resources Information System (SNIRH). For transitional and coastal waters, the responsibility for monitoring was historically from the Hydrographic Institute (from the Portuguese Navy) and was later (2002-2004) transferred to Portuguese Institute of Marine and Fisheries Research (IPIMAR), as the first did not undertake biological monitoring. With the recent changes in administration, the authorities responsible to monitoring will be the Portuguese Environmental Agency as the Water Authority and coordinator of SNIRH (as it absorbed INAG), and the newly created Portuguese Institute of Sea and Atmosphere (to which IPIMAR competencies were transferred). The organics of Portuguese Institute of Sea and Atmosphere are not published yet. For the Azores, it is the Regional Secretariat of Environment and the Sea. For Madeira it is not known at this point. Searches on internet undertaken by the assessor, found an ongoing project for monitoring the water quality of the coastal zone, namely to assess the impact of the discharge of treated urban wastewater into the sea, undertaken by universities. Also for the other RBD, often universities have been and some are involved in specific investigations.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

 Authorities responsible for surveillance, operational and investigative monitoring are outlined in the table below (Table 3).

Table 3: Summary of responsible authorities for surveillance, operational and investigative monitoring

<table>
<thead>
<tr>
<th>Type of Monitoring</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveillance Monitoring</td>
<td>Continental Portugal: Ex-INAG now Portuguese Environmental Agency, and ex-IPIMAR now Portuguese Institute of Sea and Atmosphere (most likely); Azores: Regional Secretariat of Environment and the Sea; Madeira: Not known</td>
</tr>
<tr>
<td>Operational Monitoring</td>
<td>Continental Portugal: Ex-INAG now Portuguese Environmental Agency, and ex-IPIMAR now Portuguese Institute of Sea and Atmosphere (most likely); Azores: Regional Secretariat of Environment and the Sea; Madeira: Not known</td>
</tr>
</tbody>
</table>
### Type of Monitoring

<table>
<thead>
<tr>
<th>Type of Monitoring</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigative Monitoring</td>
<td>Same as above. Judging from recent experience, most likely universities will be hired to participate in this kind of Monitoring.</td>
</tr>
</tbody>
</table>

Except for the Azores where the issues are dealt by the same authority, for the other RBD it is not known how coordination takes place.

Authorities responsible for monitoring the different water categories are outlined in the table below.

The Portuguese Environmental Agency, as coordinator of SNIRH is the overall coordinator of monitoring in continental Portugal. In its role of National Water Authority, it will also supervise (or at least be informed) of the work undertaken in the autonomous regions. Azores has only one authority, the Regional Secretariat of Environment and the Sea. It is unknown how coordination takes place in Madeira.

### 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

#### 3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 4).

**Table 4: Summary of responsible authorities for different directives and policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment</td>
<td>Continental Portugal: Portuguese Environmental Agency; Azores: Regional Secretariat of Environment and the Sea; Madeira: Regional Directorate of Environment</td>
</tr>
<tr>
<td>Directive</td>
<td></td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Continental Portugal: now the same ministry deals with different topics as it is Ministry of Agriculture, Sea, Environment and Territorial Planning (MAMAOT) Azores: Regional Secretariat of Environment and the Sea and Regional Secretariat of Agriculture and Forests Madeira: Regional Directorate of Environment and Regional Directorate of Agriculture, both under the Regional Secretariat of Environment and Natural Ressources</td>
</tr>
<tr>
<td>Bathing Waters Directive</td>
<td>Continental Portugal: Portuguese Environmental Agency; Azores: Regional Secretariat of Environment and the Sea; Madeira: Regional</td>
</tr>
</tbody>
</table>
### Directives / Policies

**Directorate / Policy**

**Responsible Authority**

**Directorate of Environment**

**Drinking Water Directive**
- Continental Portugal: Portuguese Environmental Agency; Azores: Regional Secretariat of Environment and the Sea; Madeira: Regional Directorate of Environment, probably together with Regional Secretariat of Social Equipment

**Floods Directive**
- Continental Portugal: Portuguese Environmental Agency; Azores: Regional Secretariat of Environment and the Sea; Madeira: Regional Secretariat of Social Equipment

**Marine Strategy Framework Directive**
- Continental Portugal: Portuguese Environmental Agency, and General Direction of Sea Policy and General Direction of Natural Resources, and Maritime Safety and Services, all of the same Ministry (MAMAOT) Azores: Regional Secretariat of Environment and the Sea; Madeira: Port Administration of the Autonomous Region of Madeira.

**Habitats Directive**
- Continental Portugal: Portuguese Environmental Agency; Azores: Regional Secretariat of Environment and the Sea; Madeira: Regional Directorate of Environment

**Climate**
- Continental Portugal: Portuguese Environmental Agency and Portuguese Institute of Sea and Atmosphere (research and monitoring only). Azores: Regional Secretariat of Environment and the Sea; Madeira: Regional Directorate of Environment

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 5).

**Table 5: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agriculture</strong></td>
<td>In continental Portugal it is the same ministry, the Ministry for Agriculture, Maritime Affairs, Environment and Regional Planning (MAMAOT) In the Azores Regional Secretariat of Agriculture and Forests Madeira: Regional Directorate of Environment and Regional Directorate of Agriculture, both under the Regional Secretariat of Environment and Natural Resources</td>
</tr>
</tbody>
</table>
| **Water** | **Drinking Water**  
Continental Portugal - Same authority. There is also a Regulatory Entity of Water and Waste who is becoming an independent agency. Azores - the Regulatory entity is part of Regional Secretariat of Environment and the Sea (water authority) Madeira - there is a public company of water and waste (a multi-municipal company). There is no indication of an |
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<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>existence of a regulatory entity.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Wastewater</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Similar to drinking water</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Energy</strong></td>
<td>Continental Portugal - General Directory of Energy and Geology under Ministry of Economy Azores - Regional Directorate of Energy that is part of the Regional Secretariat of Environment and the Sea (water authority) Madeira: General Direction of Commerce, Industry and Energy</td>
</tr>
<tr>
<td><strong>Transport</strong></td>
<td>Continental Portugal - Ministry of Economy, Captaincies (Portuguese Navy) Azores: Regional Directorate of Marine and Aerial Transports and Regional Directorate of Terrestrial Transport and Equipment Madeira: Regional Directorate of Terrestrial Transportation and Port Administration of the Autonomous Region of Madeira</td>
</tr>
<tr>
<td><strong>Industry</strong></td>
<td><strong>IPPC</strong> The environmental License is dealt with the national and regional authorities for environment. In all cases they are the water authority. Besides, for license to operate Continental Portugal: Ministry of Economy Azores: Regional Secretariat of Economy Madeira: General Direction of Commerce, Industry and Energy. <strong>Non IPPC</strong> Ministry of Economy issues the industrial license to operate. The environmental authorities may inspect the compliance of the operation Some licenses are dealt with municipalities when industries are connected to the municipal grid. It is then the municipalities that deal with the water authority. Madeira: General Direction of Commerce, Industry and Energy</td>
</tr>
<tr>
<td><strong>Mining</strong></td>
<td>Continental Portugal - General Directory of Energy and Geology under Ministry of Economy Azores - Regional Secretariat of Economy and Regional Direction of Energy Madeira - General Direction of Commerce, Industry and Energy.</td>
</tr>
</tbody>
</table>

### 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

The general principle of participation is established under Article 84 of the Water Law according to which the State shall through INAG and the RBDA promote active participation of natural and legal persons in establishing, reviewing and updating the RBMP.

Stakeholders are to be involved in drafting, reviewing and evaluating the RBMP through the process of public discussion and representation of the users in advisory management
water bodies. The opening of the period of public discussion is announced through a note published in the official journal and disseminated through the media. This note includes the following information: (i) period of consultation (it has been fixed in six months for each RBMP being the minimum period one month in accordance with the general law); (ii) the scope of consultation (draft version of the RBMP including technical report and non-technical summary for each river basin; the environmental reports; and the non-technical summaries of SEA); (iii) and the place (at each RBDA, through their websites or at INAG).

After the public discussion period, each RBDA shall assess the results and prepare the final version. The RBMP shall indicate the measures of information and public consultation including the results and amendments made to the plans accordingly.

In each river basin district, the River Basin District Councils (RBDC) play a central role in the public consultation process during the elaboration of the RBMP. They are an advisory body of the RBDA which include representatives from: the ministries; other bodies of public administration; municipalities with a direct interest; representative bodies of main users related to the consumptive and non-consumptive uses of water in the respective river basin - associations from different sectors such as users of water resources, agriculture, fisheries, tourism; technical and scientific organisations on environment and water resources; and non-governmental organisations on environment and water resources. In accordance with the organic structure of the RBDA, the RBCDC can receive claims and complaints from individual and legal persons and their composition and operation is to be established in the Statute of each RBDA in accordance with the characteristics of each river basin district. The frequency of meetings is to be determined by the President of the RBDC in accordance with the general rules applicable to collective bodies under the Code of Administrative Procedures. The RBDC of the RBDA of Tejo, for instance, met three times in 2009 and 2010 and twice in 2011 - the reports and list of participants are publicly available. All the Portuguese RBDA are currently subject to public consultation - the period of consultation started in the second semester of 2011 and shall end before the 1st semester of 2012.

   Centro: [http://www.arhcentro.pt/website/ARH_do_Centro/Dep_de_Planeamento_Informa%C3%A7%C3%A3o_e_Comunica%C3%A7%C3%A3o/Planeamento_e_Informa%C3%A7%C3%A3o_e_Comunica%C3%A7%C3%A3o/dwinter862PGBH_-_Participa%C3%A7%C3%A3o_P%C3%A9Ndulo_Final%281%29/Consulta_p%C3%A9nde_Final%281%29/Consulta_PGBH.aspx](http://www.arhalentejo.pt/index.php?option=com_content&view=article&id=186)
   Norte: [http://www.arhnorte.pt/?co=348&tp=7&cop=236&lg=0&mos=354&it=pagina](http://www.arhnorte.pt/?co=348&tp=7&cop=236&lg=0&mos=354&it=pagina)

The competences of the RBDA of Madeira have been approved by Regional Legislative Decree 33/2008/M which adapts to the autonomous region of Madeira Law 58/2005 of 29 December which approves the Water Law, as well as the DL 77/2006 of 30 March which complements its legal regime [http://www.dre.pt/pdf1sdip/2008/08/18700/0563705645.PDF](http://www.dre.pt/pdf1sdip/2008/08/18700/0563705645.PDF)
174 [http://www.inag.pt/index.php?option=com_content&view=article&id=337:CONSULTA%20P%C3%9ABLICA:%20Planos%20do%20Gest%C3%A3o%20de%20Regi%C3%A3o%20Hidrogr%C3%A1fica%20%28PGRH%29](http://www.inag.pt/index.php?option=com_content&view=article&id=337:CONSULTA%20P%C3%9ABLICA:%20Planos%20do%20Gest%C3%A3o%20de%20Regi%C3%A3o%20Hidrogr%C3%A1fica%20%28PGRH%29)
5  Impact of the WFD

5.1 Changes to water governance resulting from the WFD

It is not clear whether any new authorities have been created as a result of the WFD. Due to the WFD, RBD authorities were created in Continental Portugal. But currently they have been integrated in the Portuguese Environmental Agency. In the Azores there have been no changes. In Madeira it is not known at this point.

5.2 Organisation structure

Whatever the assessor would depict at this time could be not accurate. This is because practical issues are yet to be defined in continental Portugal (missing internal statutes of some institutes and organics of other involved competent authorities), and in Madeira it is not known (maybe even for the authorities) how will be the sharing of duties.

6  Analysis of the nature of RBMPs

6.1 Note on the Institutional Framework

The structure of the Portuguese Government changed substantially following the elections in July 2011. The Ministry for Agriculture, Maritime Affairs, Environment and Regional Planning (MAMAOT) is presently the government body in charge of defining and coordinating the environmental policy. Its organic law approved by DL 7/2012, from 17 January\textsuperscript{175} abolishes the Portuguese Water Institute (the national authority for the approval of the RBMP) and the River Basin District Administrations (the national authority for the elaboration and implementation of the RBMP) which are to be both integrated under the new Portuguese Environment Agency (APA I.P). The organic structure of APA is expected to be published in March 2012. The present findings are based in the existing organisational structure.

6.2 Characterisation of the legal status of the River Basin Management Plan

In Portugal this matter is regulated by the Water Law\textsuperscript{176}, which establishes that the management of water resources is undertaken by public institutes with administrative and financial autonomy at two levels: the Water National Institute (INAG) which is the Water National Authority and the River Basin District Administrations (RBDA). It foresees three types of water resources planning instruments: the Water National Plan; the River Basin Management Plans (RBMP); and the specific Water Management Plans which include measures to protect and enhance the water resources.

The RBMP are elaborated and implemented by the RBDA and adopted by the Government through INAG. For international river basins, INAG is in charge of elaborating a joint plan in coordination with the Spanish authorities. The organic

\textsuperscript{175} DL 7/212, of 17 January approves the organic law of MAMAOT \url{http://dre.pt/pdf1sdip/2012/01/01200/0021400229.pdf}


Abbreviation: Law 58/2005 or Water Law
structures of INAG and the RBDA have been approved by DL 135/2007\(^{177}\) and DL 208/2007\(^{178}\) respectively and are under review in accordance with the Note on the Institutional Framework (above).

The contents of the RBMP are established by Order 1284/2009\(^{179}\). The form of adoption was previously defined under a Regulatory Decree by the legal regime of water resources planning \(^{180}\). In accordance with the Legal Regime of Land Management Instruments\(^{181}\), as a general rule, sectoral plans are approved by Resolution of Council of Ministers unless specific rule establishes otherwise (Article 41 of DL 380/99 as amended). The new regulation however does not specify it.

The RBMP are subject to Strategic Environmental Assessment (SEA) in accordance with DL 232/2007\(^{182}\). They shall be published in the official journal and made available at INAG’s website.

Portugal has not yet concluded the process of adoption of its RBMP as required under the WFD. These are to be adopted for each of the river basins geographically defined under DL 347/2007\(^{183}\). Until then the existing river basis plans shall remain in force, in accordance with DL 226-A/2007\(^{184}\).

### 6.2.1 Legal effect

The RBMPs are sectoral plans subject to the legal regime of land management according to which their elaboration is subject to guidelines set by the national program planning policy, which they develop and materialise, and shall also be compatible with regional plans. RBMPs stand at an intermediary level between the National Water Plan (the strategic water management which they implement) and the specific Water Management Plans that include measures to protect and enhance water resources.

They cannot contradict national guidelines or decisions as their territorial scope is limited to the river basin and are subject to the relevant applicable laws.

INAG is required to ensure that the achievement of the environmental objectives and programmes of measures specified in the RBPM are coordinated for the whole of the river basin district (Article 8 (2) (f), Water law). The environmental objectives (for surface water, groundwater and protected areas) are pursued through the implementation of the program of measures specified in the RMBP (Article 45 (1), Water Law).

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\(^{180}\) DL 45/94, of 22 February regulates the process of water resources planning and preparation and approval of for water resources plans and has been repealed in accordance with Article 102 (1) and (2) of the Water Law [http://dre.pt/pdf1sdip/1994/02/044A00/07680771.pdf](http://dre.pt/pdf1sdip/1994/02/044A00/07680771.pdf)


The water status suitable to the various types of uses defined in the Water law is determined taking into account the aims and objectives established through the quality standards provided by: the Water Law and complementary legislation; the RBMPs and other water planning instruments; the special areas of water resources conservation; the titles of water resources uses.

The RBMPs establish quality standards appropriate to the various water types and uses and the programme of measures and actions to achieve the environmental objectives by 2015 which shall include a calendar, a budget and an indication of the competent authorities (Article 29 (1) n), o), Water Law). The quality standards and environmental objectives have therefore a binding effect on the administrative decisions taken by public administration.

6.2.2 Legal status in relation to individual decisions

The uses of water resources are regulated by Chapter V of the Water Law which distinguishes between public and private uses: the first ones are of common use (such as recreation and watering) not requiring any authorisation as long as they comply with the law and relevant plans whereas the later require a license or concession. Article 60 and 61 list the activities that are subject to a license and a concession respectively. Hydropower installations and abstraction for agriculture are subject to a concession whereas IPPC installations require an environmental license.

Article 62 of the Water Law on particular uses of water resources establishes that the following activities require a previous license and are specifically subject to the RBMPs: discharge of wastewater; waste immersion; recharge and artificial injection in groundwater; extraction of inert; landfills and excavations.

Article 63 of the Water Law defines the following conditions and requirements for attribution of the right to use water: compliance with the standards and principles of the Water law; compliance with the provisions of the RBMPs; compliance with the instruments of territorial planning and specific plans of water management; and compliance with quality standards and discharge standards.

In accordance with the legal regime for water uses the competent authority may temporarily modify the titles for water use (license or concession) whenever that is required to ensure their compliance with the RBMPs (Article 28 (d), DL 226-A/2007).

In accordance with the WFD, the RBMPs are reviewed every 6 years. The licenses are granted for a maximum period of 10 years but can be reviewed, temporarily or definitively, by the issuing authority, to inter alia, ensure compatibility with the RBMPs or in case of drought or other natural disaster or force majeure (Article 67 (3), Water Law). The concessions are defined on a case by case basis in accordance with the legal regime applicable to the specific use (as indicated below) and defined in the contract between the Government and the concessionaire. They are granted for a maximum period of 75 years but their conditions may be reviewed pursuant to the concession contract (Article 68, Water Law).

185 On this matter see case law from the Supreme Court of Justice - SJ2009060400082 http://www.dgsi.pt/sti/sf/954f0ce6ad9dd8b980256b5f003fa814/a358b809e58a0140802575cf0033d308?OpenDocument&High light=0,lei,58%2F2005
The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

In accordance with the regime of water resources uses set by DL 226-A/2007 the abstraction of public water for hydropower production shall comply with the provisions of the RBMP. Hydropower installations are subject to a concession regime – for installations with power above 100 MW each concession is subject to a Resolution of the Council of Ministers. Those below 100 MW are subject to the rules of common public tenders.

Concessions are issues for a period of 50 years by the Minister in charge of Economy (presently Ministry of Economy and Employment) in accordance with the legal regime for the production, transport, distributions and commercialisation of electricity. The concession contract can be modified or revoked by decision of the Minister of the Economy in the situations specified under DL 172/2006. Lack of compatibility with the RBMP is not expressly mentioned as a cause for modification or revocation of the concession. However it is understood that it would fall under the obligation to comply with the applicable laws and regulations and with the instructions of the grantor.

The "National Programme of Dams with High Hydropower Potential", approved in October 2007, identifies and prioritizes the investments in hydroelectric power plants for the period 2007-2020.

The general objective of the Portuguese Government it to achieve a total of 7 000 MW installed hydroelectric power by 2020. The draft versions of the RBMPs consulted specifically refer to this Programme with regard to sectoral policy guidelines to which the RBMP must comply.

As a general rule the planning cycle defined under the Water Law is not entirely reflected in the legal regimes for the different uses specified below.

**Abstraction for agriculture**

Water abstraction for irrigation of an area superior to 50 ha requires a concession (Article 61 (b), Water Law) whereas sowing, planting and cutting trees and shrubs are subject to a license (Article 60 (I), Water Law).

The concession contract establishes the rights and obligations of the grantee and the grantor in accordance with the legal regime for hydro-agricultural activities. Concessions are issues by decision of the Minister in charge of Agriculture (presently MAMAOT) and granted for a period of 20 years in accordance with Order 1473/2007. The concession’s decision is published at the official journal (section reserved to administrative acts). The grantor reserves the right to review the concession’s conditions in order to ensure its compliance with any modifications to the applicable regulations.

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187 DL 86/2002 of 6 April, which updates the legal framework for harnessing hydro-agricultural works, approved by DL 269/82, of July 10 [http://dre.pt/pdf1sdip/2002/04/081A00/365733201.pdf](http://dre.pt/pdf1sdip/2002/04/081A00/365733201.pdf)

legislation and rules on management of the hydro agriculture uses, water resources and environmental policy (Basis VI, Order 1473/2007). The concession can be revoked in accordance with the general rules of the Civil Code on subsequent changes of the contract’s conditions subject to the principles of equity and good faith (Basis XXVIII, Order 1473/2007).

Abstraction for agriculture shall comply with the RBMP in accordance with the general rule of Article 63 of the Water Law.

**IPPC and other industrial installations**

In accordance with the legal regime concerning integrated pollution prevention and control\(^{189}\), the license for exploitation of an IPPC installation and its modifications can only be issued after the environmental license – administrative decision which aims at ensuring prevention and control of pollution establishing the measures required to avoid, or if that is not possible, reduce emissions to water being a *sine qua non* condition for the operation of the installation. As a general rule, environmental licenses are issued by APA within 75 days for a maximum period of 10 years - a new license is required in case of substantial changes. They shall, *inter alia*, foresee supplementary conditions in order to ensure compliance with the objectives of environmental quality (Article 18, DL 173/2008).

The uses of water resources by IPPC installations can be requested by the operator directly to the RBDA. These titles of uses are annexed to the environmental license and shall comply with the legal regime for water uses (DL 226-A/2007 as amended) and the Water Law (Article 26, DL 173/2008). The legal regime concerning integrated pollution prevention and control doesn’t make any express reference to the RBMP – this is understood to derive from the need to comply with the legal regime of water uses of which the RBMP is an instrument.

**6.3 Relationship with other sectoral policy plans**

The Programme of Land Policy Planning approved by Law 58/2007\(^{190}\), prevails over all the other instruments of spatial planning in force establishing the guidelines for the elaboration of new sectoral plans. The National Programme of Land Policy Planning and the Water National Plan shall be articulated in order to ensure the proper integration and compatibility of their options. On the other hand the sectoral plans and programmes with significant water impacts shall integrate the objectives and measures foreseen in the water planning instruments. The water planning instruments are binding on the Public Administration and include: development plans of public water reservoirs; coastal zone management plans; estuaries management plans.

Water planning is subject *inter alia* to the principle of integration in accordance with which it shall be compatible with other administrative planning instruments at the same hierarchical rank in the environmental, territorial and economic fields.


The RBDA are in charge of elaborating and implementing the RBMPs and the specific plans for water management (Article 9 (6) a), Water Law). All the RBDA have a Department of Planning, Information and Communication who is involved in the development, evaluation, modification, revision, suspension and implementation of spatial planning and land use plans with relevance on water resources management namely with regard to harmonisation, internal and external coordination and graduation of the different interests required by law.

Regarding floods the RBDA are, in accordance with DL 115/2010 of 22 October\(^{191}\), the competent authorities to *inter alia*: define the units of management; undertake the preliminary flood risk assessment; propose areas of potential significant flood risks; prepare flood hazard maps for risk areas and flood risk maps; prepare and implement the flood risk management plans. No timeline for alignment is specified.

### 7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

#### 7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

The permits and licenses for water uses are regulated by Law Decree 226-A/2007 (which has been altered several times). Art 97 of Law Decree 226-A/2007 establishes that the diploma applies to the Autonomous Regions of Azores and Madeira, despite internal administrative structures. In continental Portugal: Due to recent changes, the responsibility is now from the Portuguese Environmental Agency throughout the territory. However, there will be regional delegations which organization will be established in the statutes, not yet published. For coastal zone licensing (including in marine protected areas) is of the responsibility of the General Direction of Natural Resources, and Maritime Safety and Services, while the Captain of the Port licenses vessels and some sport or cultural events occurring at beaches or at sea. In Azores, the permitting and licensing is issued by the Regional Secretariat of Environment and the Sea. In Madeira the authority that issues the permits and licenses is the Regional Directorate of Environment, except in the areas administered by the Port Administration of the Autonomous Region of Madeira (Regional Legislative Decree 33/2008/M). However, the Regional Directorate of Environment can delegate these powers.

Permits (licences) are coordinated by the main WFD competent authority.

It is unclear if there is an inventory of permits (licences). There seems to be an Inventory of Permits (licenses) managed by the former Portuguese Water Institute. It

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was within the responsibilities of the RBD authorities to update it. The website exists (see below), but requires registration (something the assessor did not do). However, all references found to the system state it is still in development and it is not clear if it is already in full operation. For Azores and Madeira it is unclear if such an inventory exists.

For hydromorphological alterations, in the case of Madeira, there might be a different authority for different water users, but not yet established. It is unknown, for Madeira RBD, how authorities coordinate.

7.2 Permit applications
The process for application for a permit is described below.

Depending on the type of use or scale of use, the user can start operation by simply communicating to the authority the water use, or has to submit a request for authorization, permits or concessions. The forms for these requests and communication can be found in the website of the (former) RBD Authority. Under the administrative reform, these websites will change. According to the Law 58/2005, Water Law, the licenses are granted for a maximum period of 10 years but can be reviewed, temporarily or definitively, by the issuing authority, to inter alia, ensure compatibility with the RBMPs or in case of drought or other natural disaster or force majeure (Article 67 (3)). Hydropower installations and abstraction for agriculture are subject to a concession whereas IPPC installations require an environmental license.

The following activities require a previous license and are specifically subject to the RBMPs: discharge of wastewater; waste immersion; recharge and artificial injection in groundwater; inert extraction; landfills and excavations.

First, any entity can submit to the competent authority a Request for previous information on the possibility of the water use the entity intends to do. The authority has 45 days to reply. The authority is committed with the answer as long as the proponent submits the request for the title within a year.

Authorization - The request is considered accepted if there is no reply from the authorities within two months, unless there occur a factor that imposes the rejection. With the final decision the authorization is sent to the user within 15 days. The authorization clearly states the terms, conditions, and technical requirements of the operation.

License - The request is subjected to consultation by other authorities, depending on the water use. The consultation phase occurs within 15 days of reception of all necessary documents. Within 45 days after the period of consultation, and granted that the opinions are positive, the request is analysed by the water authority. If the final decision is positive, the license is sent to the user, clearly stating the terms, conditions, and technical requirements of the use.

Some water uses, such as inert extraction in excess of 500m3, some occupations of public hydric domain, or beach support equipment are subject to public tender. The initiative of this use can be from the Administration, in which case a public tender process is followed. The initiative can be from private entity, in which case the authority starts by publicizing the request during 30 days to allow other competitors to apply. If nobody applies, hence the process is similar to when there is no tenders. If other competitors apply, the originator is given preference and has 10 days to declare to
assume the conditions of the selected proposal. Also the former user can request to continue its activity for up to two more years, as long as the user has declared one year before the end of its license the will to extend it, and declares within 10 days to comply with the conditions of the selected proposal.

The emission of the license requires insurance, or a bank guarantee or temporary bank deposit on the value of 0.5% to 2% of the total investment to ensure rehabilitation of environment in case of accident. The final value is established by the competent authority, based on the level of risk imposed by the use. If the water authority determines that the water use is not going to cause a significant impact in the water resources, the user is exempted of this insurance/bank guarantee. An additional 5% of the total of investment is required if the use is related to the construction, change or demolition of fixed or removable structures, beach equipment, or infrastructures or equipment to support road traffic of hydraulic infrastructures.

Concession – Some uses, due to its dimension and required investments require a concession. The concession is awarded through a tender process, or by a Decree Law to public companies in case of multiple function infrastructure. Whenever it is initiative of the Administration to start a use, a tender process is launched to select the concessionary. The Tender has the same characteristics of any public tender. Whenever the concession results from the request of a private entity, then the procedure is similar to the license procedure for this case. In this case the former concessionary has preference if assumes the selected proposal conditions to remain for more 5 years. The concessions cannot exceed 75 years. Also in this case an insurance/bank guarantee is necessary.

Finally, if the use requires Environmental Impact Assessment, the above can only start after the emission of the positive declaration of environmental impact by the competent authorities. If the use has a transboundary effect the Spanish authorities will be consulted. If the use occurs in an area controlled by the port authorities then there needs to be a joint order of the different authorities.

Differences for different types of water or scale are detailed below (Table 6).

**Table 6: Differences in the permit application process for different water uses**

<table>
<thead>
<tr>
<th>Water Use</th>
<th>Permit Application Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>If in a private site and with a pump under 5 CV, just a communication is required. If in private land or water, an authorization is required. A license is required in public domain. A concession if it is abstraction for human consumption and for irrigation of an area larger than 50 ha require.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>Depending on scale might require environmental impact assessment and either license or concession. A license even in privately owned sites. A concession if the impoundment is related with abstraction of water for human consumption or with abstraction for energy production.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>The wastewater discharge is always subject to license, even in privately owned river bed, water and margin. A concession in the case of industrial equipment or infrastructure that imply</td>
</tr>
<tr>
<td>Water Use</td>
<td>Permit Application Process</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>investments which return period is larger than 10 years.</td>
<td></td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>Generally, a license is required (even in privately owned sites) for activities such as immersion of waste, recharge and artificial injection in aquifers.</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td>License (even in privately owned sites) for issues as inert extraction, installation of hydraulic infrastructures, recharge of beaches, etc. For the implementation of touristic compounds or similar there is a need of a concession. For beach equipment a concession is required.</td>
</tr>
</tbody>
</table>

Regarding permits for abstractions and point source discharges, there is no possibility for situations in which the applicant for the permit is also involved in water resource management. For abstractions the water authority is different from the public company dealing with high regime water distribution, the municipalities and the farmers associations. For point source discharges, by the same reasons as in the abstraction and for the fact that these permits are usually related with economic activities not undertaken by the competent authority to issue the permits.

Regarding permits for impoundments and hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management. There exists the Authority for the safety of impoundments. However, the Portuguese Environmental Agency is currently the water authority, the RBD authority and the authority for the safety of impoundments. The authority for the environmental impact assessment is also the Portuguese Environmental Agency. For hydromorphological alterations, it might happen that the water authority has to alter geomorphology of some coastal areas to protect from erosion. In this case, as it is the same authority implementing the work

Regarding permits for diffuse pollution measures, it is unclear whether there could be situations in which the applicant for the permit is also involved in water resource management. As the Portuguese Environmental Agency concentrates so much competencies it is unclear to ascertain. However for many uses, consultations to other authorities are required. Authorities responsible for fisheries, forestry, and maritime and port authority (all currently within the same ministry as the water authority), as well as to direction of energy and geology or economy.

### 7.3 Enforcement of permits: authorities

In Portugal usually the competent authority to issue a permit is also vested with the power to enforce its conditions and initiate processes for administrative offenses. This is called “fiscalização” (inspection on a specific topic, e.g. water) which is different from “inspecção” (broad inspection activity covering different topics, water, air, noise, IPPC).

Portugal also has bodies specifically dedicated to broad inspection activity (inspecção).

**Continental Portugal**

The River Basin Authorities - responsible for issuing and enforce the permits - have since April 2012 (DL 56/2012 of 12 March) been integrated into the Portuguese
Environmental Agency (Agência Portuguesa do Ambiente, APA). Concessions for hydro-electricity were dealt by the National Water Institute until April 2012, when the Institute was also integrated into APA. APA is thus responsible to issuing permits (water, IPPC) and also has enforcement powers, namely on administrative offences, as well as following up on cases started by SEPNA (see below).

For coastal zones, licensing (including in marine protected areas) is the responsibility of the General Direction of Natural Resources, and Maritime Safety and Services, belonging to the same ministry of APA, the Ministry of Agriculture, Sea, Environment and Territorial Planning.

The National Republican Guard (a police force constituted by military elements) also has a force for environmental enforcement (Service on Protection of Nature and Environment, SEPNA) that can intervene upon receiving a complaint and can initiate legal procedures in the case of a breach of legislation. The Service acts in support of both APA and the general inspection authority.

According to the Water Law (Law 58/2005), the competence for environmental inspection belongs to the General Inspectorate for the Environment and Spatial Planning (Inspecção Geral do Ambiente e Ordenamento do Território, IGAOT); the Inspectorate's competence on enforcement related to water is furthermore set out in DL 266-A/2007 (on water uses).

In February 2012, under DL 7/2012 (pursuant to its Article 11), this Inspectorate was combined with others to form the General Inspectorate of Agriculture, Sea, Environment and Territorial Planning. The former Inspectorate for the Environment and Spatial Planning was under the former Ministry of Environment and Territorial Planning; the new General Inspectorate is under the newly created Ministry of Agriculture, Sea, Environment and Territorial Planning.

**Autonomous Regions**

In the Azores autonomous region the Regional Secretariat of Environment and the Sea is responsible for issuing and enforcing permits. In Madeira autonomous region, the Regional Directorate of Environment is responsible for issuing permits and licenses, except in the areas administered by the Port Administration of the Autonomous Region of Madeira. However, the Regional Secretariat of Social Equipment administers the coastal zone and safety issues (floods, safety and security related to dams). For the Azores and Madeira autonomous regions, inspection is undertaken by regional inspectorates on environment.

**Organisation by geographic area, sector, permit type**

As noted above, there are currently three settings, one for continental Portugal, one for the Azores autonomous region and the third for Madeira autonomous region.

There are no separate authorities responsible for enforcement of different economic sectors. The entities issuing the permits are responsible for the enforcement of the permits in what relates directly to water – this for any permit holder no matter what economic sector. The General Inspectorate and the regional inspectorates for Azores and Madeira are responsible for enforcement across economic sectors, under a broader
perspective; they also take up more complicated cases, when the authority issuing the permit requests support.

While not involving permits, the requirements for good agricultural and environmental condition (GAEC) under the CAP involves several entities according to the environmental component in question (the institutes responsible for biodiversity, water, etc) under the coordination of the Commission of Coordination and Permanent Monitoring of Conditionality Control (Comissão de Coordenação e Acompanhamento Permanente do Control da Condicionalidade), itself under the Institute of Finance of Agriculture and Fisheries (IFAP). This commission establishes the sampling criteria and analyses the results, while IFAP implements any resulting reductions and exclusions of financing. It is not clear how this is implemented in practice, particularly the involvement of the Institutes.

There are no separate authorities responsible for the enforcement of different types of water-related permits. As discussed above, no matter what water use, the authority that issues the permit enforces compliance. In general, APA issues all water permits in continental Portugal (as do offices in the Azores and Madeira autonomous regions).

In addition, the General Inspectorate and the regional inspectorates for Azores and Madeira are responsible for enforcement across different types of water permits.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities

Under the Water Law (Law 58/2005), the competences of planning and monitoring, control and surveillance belonged to the River Basin District Administrations (ARH, Administração de Região Hidrográfica). The ARH were also the authorities to issue water permits (DL 266-A/2007 on water uses), pursuant to its Article 12.

The structure of the Portuguese Government (for Continental Portugal) changed substantially following the elections in July 2011. The Ministry for Agriculture, Maritime Affairs, Environment and Regional Planning (MAMAOT) is presently the government body in charge of defining and coordinating policies related to water (including coastal waters), as well as farming and fisheries. Its organic law, approved by DL 7/2012 of 17 January establishes the extinction of the Portuguese Water Institute (INAG, that was the Portuguese water authority also overseeing concession for hydro-electricity and security of dams) and the River Basin District Administrations (that were responsible for the elaboration of the River Basin District Management Plans (RBMP) and issuing water permits), and their integration under the new Portuguese Environment Agency (APA I.P).

The organic structure of APA (Decree Law no. 56/2012, of 12 March) establishes that APA is the Portuguese Water Authority and it brings together all the functions of INAG and the 5 RBD Authorities of Continental Portugal that had been created in 2007. There will be regional delegations of APA: their organization will be established in the statutes, not yet published.

As stated above, coastal zone licensing (including in marine protected areas) is the responsibility of the General Direction of Natural Resources, and Maritime Safety and Services, of MAMAOT.
It is still not clear how in practice will be the relations between APA and this general directorate.

In addition, APA, the General Inspectorate and SEPNA can coordinate their work on enforcement – this is described in the next section.

With the creation of the General Inspectorate of Agriculture, Sea, Environment and Territorial Planning by DL 7/2012, it is expected that further integration between agricultural and water inspections may be put in place.

For the Azores licensing and monitoring is undertaken by the regional authority on environment and the sea.

No information was found on the coordination between the different authorities in Madeira autonomous region.

**7.4.2 Between enforcement and water management authorities**

The enforcement authorities and the water management authorities are separate entities.

For continental Portugal, there is reportedly good communication between the inspectorate of environment, the authorities issuing the permits, and SEPNA.

However, the processes of these bodies run in parallel.

The inspectorate conducts inspections based on the overall risk posed by an installation (IPPC, SEVESO) or following up on a complaint. They also carry out thematic inspections, for example on transboundary waste or chemical movements. Usually the inspectorate does not carry out inspections related to water only, but they have conducted studies on installations operating within given river basins.

SEPNA works as a police force, it is decentralized and close to the citizens, and has faster capacity to react to a complaint or to a detected event. It can direct cases to the inspectorate or to the authority issuing the permit, or directly to judicial prosecutor.

The authority issuing the permit performs surveillance and control (fiscalização) of the implementation of the permit, and often requests support from the above mentioned authorities, as their numbers are quite reduced. This authority can initiate administrative processes and send a case to court.

The Regional Inspectorate 2010 report states that other forces as SEPNA, Maritime Police, National Police and environment surveillance agents, forest guards, and inspection of economic activities also sent environmental infringement notices to the Regional inspectorate for instruction of the processes.

For Madeira, no further information was found.

**7.5 Enforcement actions**

**7.5.1 Number of inspectors**

The General Inspectorate of Environment and Territorial planning had 98 staff at the end of 2011, of whom 46 were inspectors and assistant inspectors. These inspectors worked
either on environment or on territorial planning. Reportedly about 30 inspectors undertake inspections every other week.

Reportedly each RBD of continental Portugal had 2 or 3 persons in charge of inspecting compliance with permits.

In the Azores, there are 7 inspectors and 74% of the inspections are carried out in 2 of the 9 islands of the Archipelago.

No information could be found for Madeira.

In terms of the inspectorates, all the inspectors work with water as well as with other issues. The number of agents carrying out permit compliance activities in the former RBD authorities is not known.

No information found on the number of FTE inspectors working on water-related permits for agriculture. In addition, no information is available on the number of FTE inspectors working on water-related permits for other sectors.

7.5.2 Number of inspections

The General Inspectorate undertook 1086 inspections in 2011 across all fields: while no specifically water-related ordinary inspections are undertaken, water is a major topic in most inspections. Of a total of 620 new claims received by IGAOT in 2011, 120 related to wastewater discharges and 30 to water use. Of the 620 new claims, only 20 were referred to the inspectorate services, others were not yet processed (340) or were archived.

In the Azores the situation is similar, and according to the report in 2010, 7% of the infringement processes initiated were related to construction/intervention in public water domain without permit, 1% was related to wastewater discharge without permit.

No data for Madeira.

In 2011, the General Inspectorate carried out 31 tests on samples of industrial wastewater. Inspections to industry amounted to 1117. Of these, 184 integrated inspections were undertaken for IPPC industries, of which 50 were in high risk IPPC industries.

In the Azores, 233 inspections were carried out. Of these 12 were to IPPC installations.

No data was found for Madeira.

In continental Portugal, the only inspections related to agriculture had to do with use of sewage sludge from wastewater treatment plants. Wastewater discharge from animal production sites, particularly pork production is a serious pressure on some river basins. The number of inspections reached 200.

7.5.3 Number of infringement actions

In 2011, IGAOT found 161 infractions regarding the domain of public water domain; and 2 infractions regarding protection of public impoundments, lakes and lagoons.

In the Azores 19 infringement processes initiated were related to construction/intervention in public water domain without permit, 1 process was related to wastewater discharge without permit.
No data for Madeira.

The data is not clear regarding the number of water-related infringement actions specifically for industry, but the large majority of the processes mentioned above are related to industry.

Data on the number of water-related infringement actions for agriculture are not available for continental Portugal. According to the activity report of the Regional Inspectorate of the Azores, no permits for agriculture or infractions thereof are reported.

Data on the number of water-related infringement actions for other sectors are not available.

7.5.4 Other mechanisms (in addition to inspections)

The most effective tool for permit-control is self-monitoring that the operators need to undertake. This is indicated as a real help to the enforcement authorities, as it allows to remotely detect infringements and to accompany the improvement processes. These requirements arise from Decree-Law 226-A/2007 on permitting and licensing of water use, enacted in 1st June 2007. It was applied directly to licenses being processed. Users having permits under the former regime were given one year to submit the permits to the authorities and have anyway to comply with Law 58/2005 (transposing the WFD). Users not needing a permit under the former regime had two years to apply for a permit. Water uses for hydropower purposes had also two years to apply for a new license. The self-monitoring requirements, as well as the periodicity in which they have to be send to the authorities, is defined in the permits. The permit holders have also the obligation to maintain the self-monitoring results in their premises.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation

The Water Law (Law 58/2005), which is the framework legal act on water management, transposing Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000, contains general provisions related to administrative offences: it does not contain a catalogue of specific offences. There are two main general provisions. Firstly, if violation of water permits occur within the provisions of this Law, an administrative fine may be imposed on the offender, and the amounts of such administrative fine may vary between EUR 250 and EUR 2 500 000, pursuant to Article 97 of Law 58/2005. The actual amount depends on the severity of the offence, on the guilt of the offender, on its economic situation and on the economic advantage obtained. Secondly, any person causing deterioration of the quality of the water breaching the permit conditions is obliged to pay for all measures required to remedy the situation in the same position as it would have been if such event had not occurred, pursuant to Article 95 of Law 58/2005.

Detailed catalogues of administrative sanctions are provided in other legislation: Law Decree 226-A/2007 on use of water resources and Law Decree 107/2009 on protection of public inland waters (public impoundments, lakes and lagoons).

- The use of water resources without the required permit and breaches of permits conditions are very serious environmental administrative offences and may be sanctioned with an administrative fine from EUR 20 000 up to 2 500
A violation of conditions set out in spatial plans applicable to estuaries and in water resources plans or a violation of conditions imposed by the competent authority aiming at compliance with those plans, are classified as 'light' environmental administrative offences that may be sanctioned with an administrative fine from EUR 200 up to EUR 22 500, pursuant to Article 81 of DL 226-A/2007, as amended by DL 107/2009, combined with Article 22 of Law 50/2006.

Breaches of permit conditions regarding public inland waters (as defined above) may be sanctioned with an administrative fine from EUR 200 up to EUR 2 500 000 depending on the degree of seriousness (light, serious or very serious) of the administrative offence, pursuant to Article 31 of Law Decree 107/2009 combined with Article 22 of Law 50/2006.

Breaches of permit conditions or unauthorised operations may be sanctioned with an administrative fine of EUR 2000 up to EUR 2 500 000 depending on the seriousness or very seriousness of the administrative offence, pursuant to Article 31 of Law Decree 107/2009 combined with Article 22 of Law 50/2006.

Criminal sanctions for water pollution when violations of legal or regulatory provision or of obligations imposed by the competent authorities occur, including breaches in water permits conditions, pursuant to Articles 279 and 280 of the Criminal Code. Both natural and legal persons may be punished if committing water pollution causing substantial damage; if causing substantial damages to the quality of air, water, soil, fauna or flora; and if conduct is likely to cause such damages.

The crime of pollution is punished with criminal sanctions: a term of imprisonment of maximum three years. If the crime of pollution is committed with intent and creation of danger to the life of a person the applicable term of imprisonment is up to eight years.

IPPC: Sanctions for breaches of IPPC legislation provide for administrative sanctions (administrative fines, publicity of conviction, precautionary seize and accessory sanctions) (Based on integrated pollution prevention and control Law, approved by Law Decree 173/2008 transposing Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008). Noncompliance with permit conditions or noncompliance with permit and regulatory conditions are serious environmental administrative offences, punishable with administrative sanctions of fine up to EUR 20 000 or EUR 48 000 if committed, respectively, by a natural or legal person. Operation without a permit is a very serious environmental administrative offence punishable with an administrative sanctions of fine up to EUR 37 500 or up to EUR 2 500 000 if committed, respectively, by a natural of legal person. All these sanctions are applicable pursuant to Article 32 of DL 173/2008 combined with Article 22 of Law 50/2006. Criminal sanctions are applicable if the conduct is crime of pollution as described above, pursuant to Articles 279 and 280 of the Criminal Code.

Hydropower: Breaches in water permits conditions or operation without required permit has the same consequences as those indicated above - these provisions are established in legislation regarding use of water resources of DL 266-A/2007. In addition to the above criminal and administrative sanctions established for environmental offences, Law Decree 147/2008 (environmental liability) foresees strict liability, meaning that neither blame nor negligence are relevant when any person exercising a certain economic
activity causes offence to rights or interests of another person by committing an environmental offence. Pursuant to Article 7 and Annex III of Law Decree 147/2008, that person shall repair the damages of such an offence, namely if operating an installation without the permit foreseen in IPPC Law, if discharging or injecting pollutants in surface water and groundwater or if abstracting and impounding water when subjected to prior authorisation in pursuance of Water Law. This kind of responsibility and damage repair is imposed on the person committing these offences without requiring proof of guilt or negligence of the offender.

7.6.2 Sanctions normally brought for water violations
The sanctions most commonly imposed are fines.

Sanctions other than fines are only used in cases in which the infringement poses direct very serious risks to environment or to public health.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
According to the General Inspectorate, a major strength is the system of water permits, which replaced the former license mechanism. Previous to WFD, operators had a license and did not pay close attention to complying with the conditions. With the current permit, the operators are required to do self-monitoring, hence need to comply.

The fines, particularly for water violations, reportedly have a deterrent effect.

Another positive issue of the inspection system is the possibility to send samples to certified laboratories and present the results as proof in court.

7.7.2 Weaknesses of the system of inspections and enforcement
Each RBD authority developed its own model for permits. As the RBD authorities belong now to the same entity, the inspectorate expects more uniformity in the permits. The planned database will include all permits and self-monitoring reports, to be shared by inspectors and permit issuing authorities.

Some work still needs to be done as there are fines of the same value for very different offenses, namely the generic ones as not fulfilling the conditions of the permit (the offense may be simply an administrative infringement – this receives the same fine as an offense with real impact on environment).

According to the information from the General Inspectorate, it often is still worthwhile for an operator to contest an administrative decision, in particular a fine. This is because the judicial system tends to lower the amount of the fine. The situation is improving, but there is reportedly a need to strengthen the perception that judges and public prosecutors have of environment.

Although the legislation is clear, there are further orders postponing the deadline for implementation or allowing exemptions. These orders often increase complexity of legislation.
There is need to strengthen the capacity of judicial system to work with environmental issues and to strengthen the collaboration between the inspectorate and public prosecutors.

**7.7.3 Influence of the WFD and the RBMPs on enforcement**

There is still no RBMP published in Portugal.

The RBD authorities have now been included in the Portuguese Environmental Agency. So the change that existed since 2009 when RBD authorities started to work is now gone. It is still not known how it will work in the future.
8 References
Administrative environmental offences Law (Law 50/2006 as republished by Law 89/2009);

www.apambiente.pt - URL of the Portuguese Environmental Agency

- URL of the (former) RBD authority of Alentejo containing the process and documents required for permits, licences and concessions


Criminal Code;

http://dramb.gov-madeira.pt/berilio/berwpag0.home - URL of the Regional Directorate of Environment of Madeira

http://dre.pt - Portugal legal database, from all the legislation mentioned in the text is extracted

Environmental liability with regard to the prevention and remedying of environmental damage (Law Decree 147/2008 as amended by Law Decree 245/2009);

Essential information on River Basin Management Plans (RBMP) are available for each region at:

- Norte: http://www.arhnorte.pt/?co=2845&tp=7&cop=354&LG=0&mop=2848&it=pagina
- Tejo: http://www.planotejo.arhtejo.pt/liferay/home;jsessionid=BAF747AF8FBCCDFDBF876E8C7BDAB2


IPPC Law (Law Decree 173/2008);


Interview with environmental inspectors of the General Inspectorate of Agriculture, Maritime Affairs, Environment and Territorial Planning


Law Decree 7/2012,

Law Decree 56/2012, of 12 of March


Protection of Inland public impoundments, lakes and lagoons (Law Decree 107/2009 as amended by Law Decree 26/2010);

Regional Inspectorate of the Azores: 2010 Activity Report

Regional Legislative Decree 33/2008/M

Regional Regulatory Decree 23/2011/A,


[https://sniturh-trh-net.inag.pt/_layouts/login.aspx?ReturnUrl=%2f](https://sniturh-trh-net.inag.pt/_layouts/login.aspx?ReturnUrl=%2f) - website of the inventory of Permits. All the remaining information found on internet does not allow to ascertain that the system is already in use. The information, at least for now, is not public.

The main source of information on the legal nature of RBMP is the Water Law. This together with other relevant legislation is available at: http://dre.pt/
Member State Governance Fact Sheet: ROMANIA

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

**Table 1: Summary of authorities responsible for elements related to implementation of the WFD**

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of Environment and Forestry, National Administration &quot;Romanian Waters&quot; (AR)</td>
<td>AR Water Management sub-basin branches, Sub-basin Committees, National Institute for Hydrology and Water Management, Hydrological Institute, Marine Research Institute</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>AR &amp; its Water Management sub-basin branches</td>
<td>Water Interministerial Council</td>
</tr>
<tr>
<td>Monitoring</td>
<td>AR Water Management sub-basin branches, Marine Research Institute</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>AR &amp; its Water Management sub-basin branches, National Environmental Protection Agency</td>
<td>Local environmental agencies</td>
</tr>
<tr>
<td>Enforcement</td>
<td>National Environmental Guard</td>
<td>AR &amp; its Water Management sub-basin branches, central and county public health bodies, local environmental agencies, local authorities/municipalities, regular police forces</td>
</tr>
</tbody>
</table>
The main competent authorities responsible for the implementation of the WFD are described below.

The Ministry of Environment and Forestry is the main CA (strategy), together with the National Administration “Romanian Waters” (Apele Romane, hereafter referred to as AR), working under coordination of the Ministry, and the latter AR has been designated as competent authorities to implement WFD in Romania. AR has 11 water management branches responsible for each sub-basin, including the coastal waters and groundwaters. These implement the sub-basin river basin plans (see below). The National Institute for Hydrology and Water Management (hereafter referred to as INHGA) belongs to AR and works under its authority, deals with research studies in the field of hydrology, hydrogeology and water management and cooperates with the 11’s AR water management branch organisations. For the river basin management plans development, INHGA offers technical and scientific support to AR in the groundwater field.

There have been no changes in administrative arrangements since the publication of the RBMP.

1.1 Division of responsibilities
The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.).

The Ministry of Environment and Forests, together with the National Administration “Romanian Waters” (AR), have been designated as competent authorities to implement WFD in Romania; for this task, the National Administration coordinates 11 River Basin Administrations dealing with sub-basin specific problems. At the level of each sub-basin, a Basin Committee has been established as “water parliament” with the aim to ensure public consultation and participation of stakeholders (local administration, water users, local NGOs, etc.) in the process of decision taking in the water field.

The 11 River Basin Administrations, coordinated by the Romanian Waters, are responsible for the realisation of the management plans in their sub-basins.

Although groundwater is also dealt by River Basin Administrations of AR, the Hydrological Institute under authority of AR supports the decision taking through research studies. Also, for Marine waters the Marine Research institute under authority of Ministry, ensures the scientific and monitoring support and the answer is "no" since all operate under the umbrella of the Ministry of Environment and Forests, and under AR.

Although all authorities for WFD implementation fall under one Ministry, it is noted that one of the 11 River Basin Administrations/AR water branches deals in particular with the coastal waters, and that INHGA provides technical and scientific tools for groundwater assessment.

Co-ordination among the different authorities is formalised and is carried out at the technical and senior management levels. Coordination is under the Ministry of Environment and Forests and AR, so no other body, but ad-hoc coordination meetings are called on emerging issues. There are also regular meetings with the Ministry and AR.
1.2 Authorities involved in preparing and approving the RBMPs

Methodologies are established by AR at a national level, then the 11 River Basin Administrations prepare river basin management plans, provide data etc. for all aspects of the RBMP and submit reports to AR. AR then checks and validates the information for preparing the river basin management plans and finally elaborate the national river basin plan as synthesis of 11 river basin management plans.

Coordination mechanisms to deal with multiple authorities

Coordination occurs via Water Interministerial Council within the Ministry of Environment and Forests according to the art. 7(3) of Emergency Governmental Ordinance nr.3/2010 for modification and amendment of the Water Law 107/1996.

1.3 Authorities responsible for Programmes of Measures

The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.

Monitoring is carried out by own staff of the Laboratories and Monitoring departments of the 11 AR water branches/River Basin Administrations. The Marine Research Institute monitors a part of sections and quality elements for the Black Sea.

Monitoring is undertaken through the authority’s own facilities and staff.

The Laboratories and Monitoring departments of the 11 AR water branches/River Basin Administrations and the Marine Research Institute are responsible for all three types of monitoring (surveillance, operational and investigative).

The Laboratories and Monitoring departments of the 11 AR water branches/River Basin Administrations are responsible for monitoring in all water categories (rivers, lakes, transitional, coastal, groundwater). The only exception is that the Marine Research Institute monitors especially the Black Sea monitoring sections under the requirements of Black Sea Commission. There is an agreement between AR Water branch (Dobrogea-Litoral River Basin Administration) and the Marine Research Institute on monitoring data exchange.

3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.
Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies
The responsible authorities for each directive / policy are named in the table below (Table 2).

Table 2: Summary of responsible authorities for different directives and policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Ministry of Environment and Forests/ AR, water services operators and local authorities for implementation</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Partially: Ministry of Environment and Forests/ Ministry of Health and local public health authorities for implementation and AR.</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Ministry of Environment and Forests/ AR (INHGA as described above) for implementation.</td>
</tr>
<tr>
<td>Climate</td>
<td>Ministry of Environment and Forests relating to water scarcity and droughts and AR.</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. Coordination is carried out by Ministry of Environment and Forests.

3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (Table 3).
### Table 3: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Agriculture and rural Development, Measures for agri, respective agency.</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water&lt;br&gt;Ministry of Health&lt;br&gt;Wastewater&lt;br&gt;Ministry of administration and Interior, Local and regional authorities</td>
</tr>
<tr>
<td>Energy</td>
<td>Ministry of Economy, Trade and Business Environment</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Transportation and Infrastructure</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC&lt;br&gt;Ministry of Economy, Trade and Business Environment&lt;br&gt;Non IPPC&lt;br&gt;Ministry of Economy, Trade and Business Environment</td>
</tr>
<tr>
<td>Mining</td>
<td>Ministry of Economy, Trade and Business Environment</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. The responsibilities are not divided by sectors or the main drivers. The 11 River Basin Administrations, coordinated by the AR, are responsible for the realisation of the management plans in their sub-basins. The Ministry of Environment and Forests is the representative at governmental level and the National Administration “Romanian Waters” is the implementing unit through the 11 River Basin Administrations. (Compliance check)

Coordination with other Ministries is carried out both at ministerial level (through the Water Interministerial Council) and at technical level.

The Water Interministerial Council is a consultative organism without juridical personality which functions within Ministry of Environment and Forests. According to the Regulation for organisation and operation of the Water Interministerial Council (art, 5), the main responsibilities of the Council related to RBMPs are as following:

- to agree the river basin development and management schemes (SD);
- to assure the coordination of the unitary implementation of the SD;
- to assure the information exchange between institutions in the implementation process of the water European directive and flood risk management;
- to survey the applying legislation in force concerning the public information and consultation in the water management field.
4 Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation
The information, consultation and public participation in the preparation and adoption/review of the plan are well regulated in Romania and in line with Article 14 of Directive 2000/60/EC. The relevant legislation in the water field is the Water Law, GD 270/2012 on the approval of regulation and functioning of the Basin Committees, Minister Order (MO) 1012/2005 on the procedures for public access to information in water management, and MO 1044/2005 on the procedures for consulting the water users, the public, and the interested parties on decision-making in water management.

The Basin Committees play a key role in the consultation process during the drafting and updating/review of the SD and are required by Article 43(1) to consult a wide range of stakeholders (local authorities, local industry and agriculture representatives, research institutes, water users, NGOs etc.). The consultation process is conducted through River Basin Committees meetings, mass-media debates, and publication of the draft SD on the websites of the River Basin Administrations of ANAR.

According to Article 43(1) the Basin Committee shall ensure that, through the River Basin Administrations websites, they make available for comments to the public, for at least six months:

a) a timetable and work programme for the production of the RBMP, including a statement of the consultation measures to be taken, at least three years before the date of the foreseen approval of the updated master scheme;

b) an interim overview of the significant water management issues identified in the river basin, at least two years before the date of the foreseen approval of the updated master scheme;

c) draft copies of the RBMP, at least one year before the date of the foreseen approval of the updated RBMP.

Chapter 12 of the present RBMP describes in great detail the consultation process undergone before its adoption as well as its results (i.e. the number of debates organised, the suggestions received from the public etc.).

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
No new authorities have been created as a result of the WFD. The structures described above were already in place, but the working methods with plans for instance have changed as a result of the WFD.

No significant changes have been made to existing authorities as a result of the WFD.

5.2 Organisation structure
No diagram provided, only reference to RBMP: RBMPs (Figure 1.2. Organisational structure for implementation of WFD in Romania. RBMPs (GD 80/2011).
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The legal effect of the RBMP is regulated. According to Article 43(1) of the Water Law, the SD is the main planning, development, and management tool at river basin level. Furthermore, Article 46(1) of the same law lays down that all programmes and administrative decisions related to water need to comply with the content of the SD as approved.

In Romania, the river basin development and management schemes ("schemele directoare de amenajare si management ale bazinelor hidrografice" (SD)) is the main planning, development, and management tool at river basin level. According to Article 43(1) of the Water Law 107/1996 (hereinafter “The Water Law”), SD has two components: the river basin development plan, dealing with quantity aspects, and the river basin management plan, dealing with quality aspects, which is the equivalent of the RBMP set by Directive 2000/60/EC.

According to Article 43(2) of the Water Law, drafting and review/updating of the RBMP is under the responsibility of an institution called Administratia Nationala "Apele Române" (ANAR), which plays key role in the implementation of Directive 2000/60/EC, and is agreed by the Basin Committees based on the proposal of the central government authority responsible for water management (i.e. the Ministry of Environment). The RBMP is ultimately endorsed by Government Decision (GD).

The present RBMP was published on the website of ANAR on 22 December 2009 and was subsequently approved by GD no. 80 of 26 January 2011 for the approval of the National Management Plan for the portion of the international Danube river basin which is included within the Romanian territory and was published in the Official Journal of Romania no 265 of 14 April 2011. Since the RBMP was published in December 2009 Romania is considered to have complied with the deadline set in Article 13(6) of Directive 2000/60/EC which refers to the publication of the RBMP and not to its approval/adoPTION.

6.1.1 Legal effect

As stated above, the RBMP was approved by decision of the Romanian Government. According to the Romanian Constitution (Article 108(2)) the Government adopts decisions to organise the application of laws. Therefore, the GD cannot contradict laws and stands above any acts that may be issued by local administrations.

The binding effect of the environmental objectives set out in the RBMP is regulated according to the Water Law no. 107/1996 with further modifications and amendments, Governmental Decision no. 80/2011, Governmental Order 799/2012 and Governmental Order 662/2006. However, since all programmes and administrative decisions need to be in accordance with the SD as quoted above from Article 46(1) of the Water Law, the environmental objectives laid therein have a binding effect on authorities that can be in

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192 This law was amended a good number of times. The latest amendments have been introduced in 2011 (Emergency Governmental Ordinance nr.3/2010 approved by Law no. 146/2010). Law 310 of 2004 introduced the most significant amendments as concerns compliance with the European Union acquis.
charge of developing programmes or issue administrative decisions and also on water users which implement the provision of the RBMPs and POMs.

Therefore the environmental objectives do not have a different legal status compared to the rest of the RBMP.

The RBMP contains information on the legal effect of the environmental objectives laid therein, since the RBMPs are approved through the GD 80/2011 and the chapter for defining the environmental objectives is part of the RBMPs.

6.1.2 Legal status in relation to individual decisions
The RBMP (environmental objectives) is binding on other individual (permitting) decisions. According to Article 46(2) of the Water Law, the technical dossier/documents for obtaining a permit/licenses for the activities/water works listed under Article 48 should take account of the provisions of the SD. Examples of such activities/water works are the construction of dams or hydropower installations. Also, as already mentioned above, administrative decisions in the field of water – such as any permitting/licence decision – must be compatible or made compatible with the provisions of the SD.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations
MO 799/2012 for the approval of the content of the technical dossier for obtaining the water management permit contains an explicit provision on the link with the SD: according to Article 12(a) of MO 799/2012 such a technical dossier should contain information on how the hydropower installation fits in the framework provided by the SD.

There is explicit provision requiring review of the existing permit/license in line with the environmental objectives of the RBMP or with its 6 yearly reviews, according to Article 53(2) of the Governmental Order 662/2006, Article 55(6) of the Water Law 107/1996 with further modifications and amendments and Article 5(3)(c) of Governmental Order no. 15/2006 (see Q3e).

For example, Article 5(3)(c) of the Governmental Order no. 15/2006 for approval of the temporary suspension procedure of the water management permit and of the modification or withdrawal procedure of the water management licence/permit mentions that it is necessary to modify the water management permit, when new legislation is in force (such as GD 80/2011 for approval of the RBMPs).

Abstraction for agriculture
There is not an explicit provision on the link between the environmental objectives of the SD and the permit procedure for abstraction for agriculture. However, the same MO 799/2012 has an umbrella provision on the content of the dossier for obtaining the water management permit for any water works. Thus, Article 7(c.4) of MO 799/2012 requires, among others, that all technical dossiers submitted to obtain a water permit should
contain information on how that specific water work fits into the framework provided by the SD.

As above, there is provision requiring issuing of the permit/licence in line with environmental objectives of the SD.

**IPPC and other industrial installations**

An authorisation for an IPPC installation or for discharges from other installations would be an administrative decision, which must be compatible with the SD in the sense of Article 46(1) of the Water Law. Furthermore, MO 799/2012 contains a whole chapter – Chapter 4 – on the content of the technical dossier to be submitted for obtaining a water permit for the installations falling under the IPPC legislation (Government Emergency Ordinance 152/2005 as approved with modifications by Law 84/2006).

According to the RBMP, in Romania there are 194 industrial installations linked to water. These installations are subject to transitional arrangements agreed in Romania’s accession negotiations with the European Union. The transition periods cover various timelines from 31 December 2008 to 31 December 2015. Also according to the RBMP, 80% of these installations already have a water management permit, whilst 2% are subject to permit renewal, 1.2% to be closed and 16.8 have to update the technical dossier filed to obtain a permit.

As above, there is explicit provision requiring review of the existing permit/concession in line with environmental objectives of the RBMP or with its 6 yearly reviews.

**6.2 Relationship with other sectoral policy plans**

The Water Law regulates the relationship between SD/RBMP and the following plans:

- Spatial and urban plans
- Flood risk management plans

**Spatial and urban plans**

Articles 46(2) and 48(1)(n) of the Water Law establish the legal relationship between the RBMP and spatial and urban plans. Thus, according to Article 46(2) of the Water Law, the technical dossier/documents for obtaining a permit/licence for the activities/water works listed under Article 48 should take into account the provisions of the SD. Therefore, the RBMP has a binding effect on the development of spatial and urban plans. However, the legislation is silent on existing spatial and urban plans and does not mention anything about the timeline for revision.

GD 270/2012 on the organisation and functioning of the Basin Committees does not mention that these would have a role to play in the preparation/adopter of spatial and urban plans.

**Flood risk management plans**

Under the Section 51 of the Water Law, there are provisions on flood risk management. Thus according to the 766(20)(b), the development of the first flood risk management plans and of their subsequent reviews is to be undertaken in co-ordination with the SD.
(river basin development and management plans). Therefore the SD has a binding effect on the floods risk management plan and its revision.

As concerns the timelines, Article 764(5) of the Water Law lays down that the environment central authority is bound to finalise and publish the first flood risk management plan before 22 December 2015, whilst Article 769(3) sets out that these plans should be reviewed, if needed, before 22 December 2021 and every six years thereafter. It seems therefore that the timelines for review are aligned between the SD and Directive 2000/60/EC.

According to Article 9(u) of GD 270/2012, the Basin Committees have to co-operate with the Ministerial Committee for Emergency Situations, ANAR and other similar bodies as concerns the plans and regulations related to floods defence (flood protection). Also, according to the provisions of Article 47(7)(l) of the Water Law, the Basin Committees have to agree the flood risk management plans.


The Basin Committees are also required to provide their agreement on the plans to restrict the use of water during droughts periods (Article 9(a) of GD 270/2012) and on the accidental pollution prevention and control plans (according to Article 47(7)(b) of the Water Law and Article 9(e) of GD 270/2012). There is no provision in the water legislation regulating the relationship between SD/RBMP and these plans.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are the AR and its 11 River Basin Administrations / water management branches.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

AR and its 11 River Basin Administrations are responsible for permitting and licensing of the works which are related to the all categories of waters; AR approves the works which
have significant impact at the national level and each River Basin Administrations approves those works at own river basin scale (see the Governmental Order 661/2006 which was in force when the river basin management plans were approved and which has been repealed by Governmental Order 799/2012; the Governmental Order 662/2006).

7.2 Permit applications

The process for application for a permit is described below.

The steps of the process for application for a permit/licence are similar with those within the example used in the questionnaire, with some particularities, such as:

- Step 3) According to the Governmental Order 662/2006, art. 52, the water management licence is issued on base of the on-site technical verification of the way to meet the legal requirements for water management in case of putting into operation of works and checking the accuracy of the data delivered by permit/licence application form and documents related.

- Step 4) The public information and consultation is conducted only in the case of new investments works which need water management permit

The main step for issuing the permits and licenses are mentioned in the RBMPs (chapter 9.4) and the detailed process for application for an water management permit is related to the specific Romanian legislation (Governmental Order 661/2006 repealed by Governmental Order 799/2012, Governmental Order no. 662/2006).

Full information on this process has not been found, however, there is a requirement that all technical dossiers submitted to obtain a water permit should contain information on how that specific water work fits into the framework provided by the SD ("schemele directorate de amenajare si management a bazinului hidrografic" - the river basin development and management schemes).

There is explicit provision requiring review of the existing permit/concession in line with environmental objectives of the RBMP or with its 6 yearly reviews. Thus, in the art. 53(2) of the Governmental Order 662/2006 there is an explicit provision requiring review of the existing permit/license in line with environmental objectives of the RBMP: “for the water bodies which not reach the good status or good ecological potential during the period for implementation of the SD, according to the art. 55 (6) of the Water Law 107/1996 with further modifications and amendments, it is required to review the provision of the water management permit", Also the viability period of the water management license is 1-5 years, since for the water management is 2 years.

In the Governmental Order no. 15/2006 for approval of the temporary suspended procedure of the water management permit and of the modification or retreat procedure of the water management licence and water management permit, art. 5(3), letter c) it is mention that it is necessary to modify the permit (effluent quality parameters) in case of appearance of new legislation (such as GD 80/2011).

The process applies for all water types and scales.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for
situations in which the applicant for the permit is also involved in water resource management.

7.3 Enforcement of permits: authorities
In Romania, several bodies are responsible for the enforcement of water management permits/licenses.

The National Environmental Guard (functioning and organised as per Governmental Decision no. 112/2009, as amended) is the lead authority for environmental enforcement. It has 8 Regional Commissariats and 42 County Commissariats (41 County Commissariats and 1 Commissariat for Bucharest).

The National Administration “Romanian Waters” (Apele Romane), which has a specialised Department for territorial inspection of waters, focuses on enforcement in the water sector, especially for the control and inspection of provisions of water management permits. Apele Romane is divided in 11 River Basin Administrations, coordinated by the National Administration. The River Basin Administrations also have enforcement functions by a similar Department for territorial inspection of waters.

For drinking water quality and bathing water quality, the authorities for inspection and control, including sanctions, are central and county public health bodies.

Other bodies, such as local environmental agencies, local authorities/municipalities or regular police forces could also be involved in enforcement.

The local environmental agencies (Agentiile de Protectia Mediului) are in charge of regulation at local level and thus issue acts such as environmental permits, environmental agreements and environmental authorisations. These local agencies are linked to the Ministry of Environment and Forests and coordinated through a National Environmental Protection Agency. Their main tasks are to ensure and coordinate the legislation transposing the EU horizontal environmental legislation, to check the conformity with the regulation acts issued and take the necessary legal measures when these are not complied with.

Local authorities, municipalities and local councils can also be involved in the enforcement of permits. In particular, they play a role in monitoring infrastructure works and checking how the environmental legislation is respected during such works. They also monitor from an environment perspective the activities of local services providers. If they identify possible environmental problems, they either propose regulating measures or they call upon the appropriate enforcement bodies to take measures and/or apply sanctions.

Local authorities, municipalities and local councils can also play a role in the enforcement of legislation, including in applying sanctions. There is a specialised service at local level (for instance in Bucharest it is called Serviciul Control Ecologie si Protectia Mediului) which has clear responsibilities for monitoring, control and enforcement/applying sanctions.

As regards the police forces, these are involved in enforcement activities only if there is a breach of the Criminal Code. Otherwise, the National Environmental Guard are those who check on the ground whether the environmental/water legislation is adequately enforced.
The National Environmental Guard is a national body with regional and county offices. The Department for Territorial Inspection of Waters within the AR is a national and river basin body. Romania has 11 River Basin Administrations.

There are separate authorities responsible for enforcement of different economic sectors. Responsibilities vary somewhat across the main economic sectors.

Industry/IPPC installations: The National Environmental Guard and its territorial departments and AR with its departments for territorial inspection of waters are the main enforcement authorities. According to Articles 86-95 and 106 of the Water Law 107/1996 with further modifications and amendments, AR has legal responsibilities for enforcement in the water management field. The water management permit/license is part of the integrated environmental permit/license (IPPC) which includes the end of pipe water emission limits.

Agriculture: The National Environmental Guard and its territorial departments, the Department for Territorial Inspection of Waters (within the National Administration “Romanian Waters” / the River Basin Administrations) can intervene and also apply sanctions for violations.

Mining: Water-related violations are addressed by the National Environmental Guard and its territorial departments, the Departments for Territorial Inspection of Waters, within the AR, and the River Basin Administrations. These bodies can intervene and also apply sanctions for violations.

However, it cannot be said that in certain economic sectors enforcement related to water is weaker/stronger than in others (at least AR has not identified any such differences). Any water work is controlled at the same strict level.

There are not separate authorities responsible for the enforcement of different types of water-related permits.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
Several pieces of legislation refer to coordination among enforcement authorities.

There is a coordination agreement/protocol between AR and the National Environmental Guard for the sustainable management of surface and underground water resources, and in particular for their protection from depletion and degradation. The focus of the protocol is on organising joint inspection and control activities of water works, on designating joint teams for checking accidental pollution incidents and on joint training of their staff.

The specific coordination mechanism between National Environmental Guard and AR thus involves collaboration at both central and local levels concerning communication, data exchange, joint control and inspection actions, common training of the specialised staff. The protocol is being renewed each year.

The gaps between the responsibilities of the two bodies, or areas of overlap, are thus minimised through the application of the protocol. The joint activities/actions of AR and the National Environmental Guard such as joint legislative proposals, an efficient
information exchange system and a joint national database for emergency/disaster situations provide a good collaboration between the two bodies.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are separate entities. The coordination between the enforcement and the policy and water management sides is achieved through the Ministry, which is the authority above both the AR and the National Environmental Guard. The Ministry issues policy guidelines and sets the basis for coordination through a protocol (see above).

There are no differences as concerns the coordination of the various economic sectors.

The River Basin Administrations also have an enforcement role. See the above information on coordination mechanisms.

7.5 Enforcement actions

7.5.1 Number of inspectors
Information on number of inspectors was not found.

For the National Environmental Guard (NEG), Article 6 (1) of Governmental Decision no. 112/2009 (with further modifications and amendments) sets a maximum limit for personnel at 953 in both central and territorial units.

Information was not found on other enforcement authorities.

7.5.2 Number of inspections
The National Environmental Guard carried out during 2010 a total of 59,614 inspections and controls across all sectors of its activities, including water and other areas of environmental protection and biodiversity and nature conservation.

The National Administration “Romanian Waters” carried out 15,522 planned controls in 2011. Of these:

- controls of sand and sandstone quarries and exploitation works – 1,240;
- mining and industrial waste deposits and landfills - 109;
- oil and related products pipes – 47;
- extraction installations – 30;
- chemical installations and oil refineries – 34;
- other water using facilities - 5,625

In addition, the AR addressed 25 pollution accidents.

For IPPC facilities and industry, NEG carried out 47,505 inspections in 2010, out of which: 14,397 planned and 33,108 unplanned. Of these, 3752 controls were undertaken together with other authorities, including the National Administration “Romanian Waters”.

7.5.3 Number of infringement actions
In 2010, across all the areas of its activities, the National Environmental Guard applied 5592 administrative fines for a total value of 77,304,000 RON (approx. 17,500,000 Euro). NEG issued 2810 warnings, 118 activity suspending orders and 8 activity
cessation orders. It also prepared 51 requests to suspend environmental permits and 42 criminal complaints.

7.5.4 Other mechanisms (in addition to inspections)
None.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
Romanian legislation provides for two types of sanctions for breaching the environmental permit conditions: administrative and criminal.

An administrative sanction is named in Romanian “contraventie”. These sanctions are regulated, for water-related activities, by the framework-law for environmental protection (EGO no. 195/2005 on environmental protection, as amended – abbreviated as EPL) and the framework-law for water (Law no.107/1996, with further modifications and amendments– abbreviated as Water Law), and, additionally, by specific regulations such as legislation for the quality of drinking or bathing water.

For breaching the permit conditions, or carrying out certain activities related to water in the absence of any water-permit, sanction under the Water Law depends on the type of responsible party: for private individuals, sanctions range from a fine starting at 6500 Ron (approx. 1550 Euro) in the case of minimum environmental impact to 30,000 Ron (approx. 6800 Euro); for legal persons, sanctions range from: 25,000 Ron (approx. 5650 Euro) to 80,000 Ron (approx.18,000 Euro).

Specific actions that constitute a violation are listed in Art. 87 of the Water Law and in specific regulations. These deeds can be determined and sanctioned by the National Administration “Romanian Waters” (NARW or ANAR, in Romanian language) inspectors (through Departments for territorial Inspection of waters), the General Director of NARW, directors of River Basin Administration (11 existing River Basin Administrations, constituted per river basin units), and officers of National Environmental Guards.

Apart from the contraventions, the Water Law regulates deeds that, due to their gravity and the impairment brought to the environment and water particularly, are to be considered criminal facts – named in Romanian “infractiune” – under Arts. 92-95. Criminal facts relevant for water permits violations are also set out in the general environmental legislation, in the Criminal Code (the new Criminal Code is about to enter into force) and specific regulations.

Under the Water Law, the following sanctions for criminal deeds are set:

Sanctions restricting liberty / for imprisonment, from 1-5 years, for the facts provided for by Art. 92(1) & (2); for attenuating circumstances occur, the imprisonment period might be transformed to the application of an alternative sanction: imprisonment for 1-3 years or, alternatively, criminal fine of: 40,000 – 70,000 Ron (approx.: 9,000 – 16,000 Euro); if aggravating circumstances occur, the imprisonment sanction may be increased at: 5-10 years and the limitation of the exercise of certain civilian rights or 15-20 years and the limitation of the exercise of certain civilian rights.
7.6.2 Sanctions normally brought for water violations
According to reports prepared by the National Environmental Guard on its control, inspection and sanctioning activities, the most common sanctions applied for the violations of water permits remain administrative fines; however, there are an increasing number of criminal sanctions applied also in relation to water-related activities, of which being at present pursued in front of the Romanian courts of justice.

Based on the activities of inspection and control of the departments for territorial inspection of waters of the AR, the sanctions typically applied are contraventions laid down at Article 87 of the Water Law which are sanctioned by the application of a fine. The breach of Articles 92-94 of the Water Law which is a criminal offence sanctioned with prison was found in very few cases.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
According to the Water Law 107/1996 with further modification and amendments, AR is the sole water management administrator of the Romanian water resources. The inspectors have responsibilities for technical inspection in the water conservation and protection and hydrotechnical works fields, establishing measures and deadlines for their implementation, and also they have responsibilities for applying sanctions if it is the case.

In conclusion, a good point is that enforcement is applied in the context of integrated water management (SD). Moreover the AR’s staff has a high technical background and experience in the water field, the AR has a long tradition in water resource management.

According to the Governmental Decision 112/2009, the National Environmental Guard (NEG) has specific duties for the enforcement of Government policy in the field of prevention, identifying and sanctioning of the infringements of the legal provisions regarding the protection of environment, waters, soil, air, biodiversity, as well as those provided in the specific laws in the field of industrial pollution control, risk management, environmental fund, and other fields provided by the specific environmental related legislation in force. For verification of some specific installations (covered by specific regulations/directives, such as for example, IPPC or Seveso) NEG performs joint inspections with the environmental permitting authority (Regional/County Environmental Protection Agencies) or with other competent authorities.

In conclusion the two authorities as separate entities cover all the control and inspection activities related to the water management and pollution sources and also they integrate these aspects.

To sum up, the main strengths of the existing enforcement system are: well trained staff, a good collaboration between the AR and the National Environmental Guard, and the regular organisation of joint controls. In addition: enforcement is reported to be more or less equivalent across environmental sectors.

7.7.2 Weaknesses of the system of inspections and enforcement
No information found.
7.7.3 Influence of the WFD and the RBMPs on enforcement

It is thought that the RBMPs have strengthened enforcement. The implementation of the Water Framework Directive and the development of the river basin management plans have produced enforcement changes, having in view the amendments of the Water Law 107/1996 in line with the provisions of the WFD) and the provisions of the RBMPs, considering the program of measures and the meeting the environmental objectives. The issuing of water management permits/licenses, also the control, inspection and enforcement activities consider these aspects.

If, for example, the water management license stipulates pollutant discharge standards more stringent than those required by the legislation (which were stated in the RBMPs for the reaching the environmental objectives), the AR’s inspectors apply sanctions if the water user does not comply with these provisions.


8 References

Activity notes (2012, 2011, covering every two weeks) for NEG, see link: 
http://www.gnm.ro/note_activ.php?PHPSESSID=7bfe75893e0cc9a4dcb36719fe74c576;

Activity Report of NEG for 2010: 
http://www.gnm.ro/raport.php?PHPSESSID=74d3a24ba7527273afe29ecc90f7b

Activity reports for NARW, see link: 
http://www.rowater.ro/Comunicate%20de%20pres/Forms/AllItems.aspx?RootFolder=%2fComunicate%20de%20pres%2fRapoarte&FolderCTID=&View=%7b372D978F-E90F-4256-896C-2C7CDB45DF50%7d

Compliance Check of RBMPs - 'Assessment of RBMPs' Questionnaires (1 Governance) for the RO RBDs.

Essential information on river basin management plans is available at 
http://www.rowater.ro/sites/en/default.aspx  (the website is available in both Romanian and English but the quantity of information is poorer in the English version). The main source of information on the legal nature of RBMP is the Water Law, available together with other legislation available in Romanian at 


Governmental Order 661/2006 for approval of the content norms of technical fundamentation documentation for obtaining the water management permit and water management license – repealed by Governmental Order 799/2012 for approval of the procedure and the competence for issuing of water management permit and water management licence, Governmental Order no. 662/2006 on approval of the procedure and the competences to issue water management permits and licenses

Interview with Madalina David, Appale Romane.

National Management Plan (Annex 9.2)

Member State officials

Mrs Elena Tuchiu, Director, ANAR,

Mr Gabriel Abos, Deputy General Comissary, National Environment Guard

RBM Plans (GD 80/2011).

Reports of the National Environmental Guard and the National Administration “Romanian Waters”:

Romanian legislation (specific references in text).

Water Law 107/1996 with further modifications and amendments.
WISE Summary Reports for RO, Chapter 1 (Governance).
1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Five Water Authorities, Swedish Agency for Marine and Water Management</td>
<td>Environment Protection Agency (EPA), Geological Survey of Sweden, water body advisory committees, Swedish Meteorological and Hydrological Institute, Water Councils</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Five Water Authorities,</td>
<td>Water body advisory committees, County administrative boards</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Five Water Authorities, EPA, Swedish Agency for Marine and Water Management, County Administrative Boards, Geological Survey of Sweden, Swedish university of Agricultural Sciences, local/regional authorities, municipalities</td>
<td>governments, communities, organisations and other stakeholders</td>
</tr>
<tr>
<td>Permitting</td>
<td>Land and environment court, County Administration, Local Authorities, Regional authorities</td>
<td>Swedish Water Supply and Sewage Tribunal</td>
</tr>
</tbody>
</table>
The main competent authorities responsible for the implementation of the WFD are described below.

The competent authorities in Sweden are the water authorities in:
Bothnian Bay
Bothnian Sea
Northern Baltic Sea
Skagerrak and Kattegat
Southern Baltic Sea
http://www.vattenmyndigheterna.se

The Water Authorities are one Regional authority/5 Länsstyrelser (County Administrative Boards), with the responsibility for the management of the quality of the aquatic environment in the district. Each authority has a delegation which decides on the programme of measures, the environmental quality standards and the river basin management plans.

These five water authorities are nationally coordinated by Havs- och Vattenmyndigheterna (http://www.havochvatten.se/; in English the Swedish Agency for Marine and Water Management, SwAM), hereafter referred to as SwAM, set up on 1July 2011, but Naturvårdsverket (NVV)/Environment Protection Agency and Sveriges Geologiska Undersökning (SGU)/ Geological Survey of Sweden have also a national responsibility for the WFD.

A summary overview of the competences of authorities given herein. SwAM and NV/EPA work under the Ministry of Environment and SGU works under the Ministry of Enterprise.

1. The River basin authorities/Vattenmyndigheterna/Water authorities are the competent authorities (hereafter referred to as the Water Authorities (WA) are responsible for the implementation – create WFD monitoring programmes, mapping (characterisation/status assessment) of the water bodies based on environmental monitoring along with complementing surveys, set environmental objectives for all water bodies (inland surface and groundwater), establish programmes of measures to achieve the objectives and develop the RBMP. For each water body there is a water advisory committee which decides on environmental quality standards, action plans and river basin management plans.

2. SwAM is responsible for WFD reporting, coordination of the 5 water authorities and to produce instructions and guidance to the "Water authorities/RBD authorities/Vattenmyndigheterna) regarding surface waters.
3. SGU (Swedish Geological Survey/Svensk Geologisk Undersökning) is responsible for instructions and guidance to the Water authorities, regarding groundwater and the provision of data on groundwater bodies and ground water chemistry. SGU is responsible for the Groundwater directive.

4. The Environment Protection Agency / Naturvårdsverket (EPA/NV) is responsible for environmental pollutants/”miljögifter” (PS EQS Directive), but SwAM is responsible for the guidance to the "Water authorities/RBD authorities/Vattenmyndigheterna) regarding surface waters. The NV/EPA is also responsible for the UWWTD, and for the Habitats and Birds Directives, but SwAM contributes with water related information.

5. The Swedish Meteorological and Hydrological Institute (SMHI) is the administrative authority for meteorological, climatological, hydrological and oceanographic questions. SMHI shall manage and develop the Swedish meteorological, hydrological and oceanographic infrastructure and thereby obtain and disseminate information on the country's meteorological, climatological, hydrological and oceanographic conditions.

The new SwAM authority was set up on 1 July 2011, set up to better integrate the implementation of both the WFD and the MSFD and the coordination role of the 5 Water authorities is more clear. Prior to this, that is for the preparation of and as described in the RBMPs, the Environmental Protection Agency responsible for the same task as SwAM is now and the Geological Survey of Sweden (SGU) responsible for ground water; but mainly the 5 Water Authorities (Vattenmyndigheterna) were responsible. The current division of responsibilities between EPA and SwAM is not yet fully clear.

1.1 Division of responsibilities
There are different authorities responsible for implementing the requirements of the directive for different water categories (groundwater, lakes, rivers, transitional etc.).

There are many different authorities involved on different levels - national, regional and local. For the first cycle, the RBD authorities were established to coordinate the implementation (develop monitoring networks, characterisation, RBMP, PoM). The RBD authorities do not have any implementing powers of measures and monitoring, but the implementation is carried out by other authorities who are listed in the RBMP. The RBMPs therefore list a large number of "instructions" to other authorities to carry out the different measures.

For the future cycles, it is not yet fully clear which role SwAM will have in the coordination of WFD implementation, in relation to the RBD authorities.

The authorities responsible for implementing the requirements of the directive for the different water categories are named below (Table 2).

Table 2: Authorities responsible for implementing the requirements of the directive for the different water categories

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>RBD authorities/SwAM/NV (only contaminants)/ - distribution of responsibilities as explained above.</td>
</tr>
</tbody>
</table>
Co-ordination among the different authorities for the management of different water categories is formalised. Coordination is carried out at the technical, senior management and political level, although this varies geographically.

**National level:**

SwAM has a coordination function regarding the RBD authorities

Samvat has planned regular meetings and consists of representatives from SwAM (from 2011-07-01) Chairman, Environmental Protection Agency, Geological Survey, Water Authorities and the Swedish Meteorological and Hydrological Institute. The authorities cooperate with each other to the extent possible, achieve goals, achieve legal certainty, effectively utilise available resources and to establish the credibility of the work on a Swedish water under the applicable laws, ordinances and regulations.

**Regional level:**

Water authorities are coordinating efforts between the county administrative boards in each district.

**Local level:**

http://www.vattenorganisationer.se/index.php

Water councils, which are local/regional coordination organs, have been created in most catchment areas. The water councils are working to ensure that water issues are being considered from the water course point of view, i.e. from a catchment perspective. The work of water councils is done both at the catchment level and more locally to find a level where stakeholders can participate. The participants in water councils include organisation representatives, politicians and decision makers who all highlight water issues to a higher level within the municipality or organisation. The water councils contribute with valuable local knowledge and offer an opportunity for stakeholders to

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lakes</td>
<td>RBD authorities/SwAM/ NV (only contaminants)/ - - distribution of responsibilities as explained above</td>
</tr>
<tr>
<td>Transitional</td>
<td>RBD authorities/SwAM/NV only contaminants)/ - distribution of responsibilities as explained above</td>
</tr>
<tr>
<td>Coastal</td>
<td>RBD authorities/Havs- och Vattenmyndigheten/ NV only contaminants)/distribution of responsibilities as explained above</td>
</tr>
<tr>
<td>AWBs</td>
<td>RBD authorities/NV/ - distribution of responsibilities as explained above.</td>
</tr>
<tr>
<td>Groundwaters</td>
<td>RBD authorities/SGU (Geological Survey of Sweden)- distribution of responsibilities as explained above</td>
</tr>
</tbody>
</table>
meet and discuss common solutions to water issues. It is in the water councils that the authorities in the first place can raise issues where involvement and knowledge of relevant stakeholders on the local level is wanted.

**Interplay between different levels:**

Each County Administrative Board has a preparatory secretariat which is responsible for working on the WFD. The representatives from the secretariat participate in both local (water councils) and regional meetings (water authorities). Representatives from the water authority participate and hold national meetings where information is provided on the international work in CIS groups etc.

The authorities involved in coordination are SwAM, along with the Geological Survey of Sweden and the Water (RBD) authorities. The regional coordination lies with the Water authorities. The local coordination lies with the county administrative boards.

1.2 **Authorities involved in preparing and approving the RBMPs**

The five Water authorities/Vattenmyndigheterna will continue to be responsible for the development of RBMPs. Their main role is coordination.

Each RBD authority has a "Water delegation", a delegation/board composed of individuals appointed by the Government, with specific technical expertise and political, and they take wide strategic question such as adopt the RBMPs, PoM and environmental objectives. They make decisions on programmes of measures, environmental quality standards and river basin management plans for each district.

1.3 **Authorities responsible for Programmes of Measures**

The five Water authorities/Vattenmyndigheterna are responsible for the development of PoM and each RBD authority has a "Water delegation" which adopts the programme of measures. The county administrative boards help the water authorities to provide data to the programme of measures.

All agencies and municipalities in Sweden are responsible for the implementation of existing environmental legislation, including the implementation of the requirements for precautions, safeguards, etc. necessary to achieve good status in the water.

The Swedish implementation model, with PoMs which are addressed to authorities and municipalities only, which in turn are responsible for ensuring that the necessary administrative and/or actual measures are implemented in individual water bodies/river basins. This is the basic reason for the PoM’s overall character. To clarify how this mechanism works, the Swedish authority and administration culture is explained below. There, great responsibility has been put on the state authorities and municipalities for independent enforcement of the environmental policy and legislation through the means of some political control (appropriation letters) and normative guidance (instructions, delegated competence through legislation, etc.). Responsible government and municipal management is a cornerstone of the system - agencies and municipalities are conducting the tasks in the best possible way.
Description of the Swedish public authorities and management structure

A. All authorities and municipalities in Sweden are responsible for the implementation of existing environmental legislation, including the implementation of the requirements for precautionary measures, safeguards, etc. necessary for the achievement of good water quality in all waters. This includes of course the achievement of good water status in water bodies. As far as possible, within the framework of each authority’s mandate and applicable legislation, requirements for specific measures are enforced on the individuals/entities, and the measures that the authority/municipality is performing or is responsible for are implemented.

Governing for this general environmental work is above all existing legislation (the Environmental Code and related regulations, PBL, infrastructure, legislation, etc.) and each authority/municipality’s governing documents (official instructions and the Local Government Act). Then there is the political control of the authorities in the form of annual appropriations, and the indirect control resulting from the allocation of funds, etc. (from the state budget). As part of its respective responsibilities, authorities/municipalities have considerable freedom to choose how, when and where various measures to be implemented and requirements should be enforced. The frames are given, but the actual content of the task work is driven by each authority and municipality. At this level there is really no coordinated, comprehensive control of measures work; every authority/municipality prioritises and controls the work on their own terms and requirements (resources, their own political priorities, assessments and trade-offs, interpretation of legislation, etc.). With regard to enforcement of measures requirements in relation to individual operators, there is often the aspect that a large number of measures can or shall be tried by the environmental courts before they can take place. This means that authorities and municipalities do not control over the final assessment of which measures that shall be implemented and how; this is done by the courts. The courts are independent in the sense that they cannot be controlled politically in individual cases – they shall apply and interpret the law impartially and independently. If there are, from the political perspective, wishes to amend the application, normally the legislation must be amended; it cannot be achieved with political directives/policy documents to the courts. This means that neither the government, water authorities or the authorities and municipalities responsible for implementing the programs can control how and whether measures can or should be considered by the environmental courts are implemented.

It needs to be noted that both the permitting authorities and courts and enforcement authorities shall apply EQS for water, pursuant to ch.5 s.3 of the EC. All measures necessary to comply with the EQS, as long as it is not unreasonable, are required in each individual case (ch.2 s.1 first paragraph of the EC). Regarding measures to comply with the environmental quality standard ‘good surface water chemical status.’

B. In order to allow authorities and municipalities guidance and more specific control of the water related measure work (to be conducted in order to achieve a good water status in water bodies), the water authorities have the opportunity to, in the PoMs, state which administrative and actual measures that should be implemented in each district to achieve the stated environmental objectives (EQS for water). In the programmes of measures, the water authorities can concretise, for example, which measures that are deemed to be most urgent to implement in each district (or river basin), when they need
to be implemented and how the coordination between different authorities and municipalities shall be in the implementation.

In this way, the water authorities’ PoMs, together with the EQS, become complementary policies for the relevant authorities and municipalities. The control is still at the administrative level because the water authorities have not been given a mandate under the law to decide on actions taken by individuals (operators, the public, organisations, etc.) to implement. In other words, it is still central and regional authorities and municipalities that are responsible for the enforcement of environmental law, but in accordance with the priorities for water quality issues established by the water authorities.

Coordination mechanisms to deal with multiple authorities

Coordination requirements exist in law if the problem for which measures are needed is located in another local community, a programme of measures for a wider area shall be adopted by concerned authorities.

It appears that the RBD wide RBMP and programmes of measures shall perform the coordination function, partly

2 Monitoring

Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring

The authorities that request monitoring are described below.

Each water authority is responsible for creating monitoring programs in collaboration with governments, communities, organisations and other stakeholders, but different authorities implement the monitoring. The EPA has an overall responsibility for all environmental monitoring. This environmental monitoring is divided into a national and a regional part, where the EPA or SwAM are responsible for planning and operation of the national part while having the responsibility for coordination of regional part, that is otherwise planned and operated by the County Administrative Boards.

NV has the main responsibility for environmental monitoring, SwAM is responsible for that the national surface water monitoring is carried out. National monitoring of groundwater is carried out by the Geological Survey of Sweden and the Swedish university of Agricultural Sciences respectively for surface water. The 21 regional authorities/länsstyrelserna (County Administrative Boards) are responsible for carrying out regional monitoring. Monitoring linked to specific areas where there is an impact of different pressures/recipientkontroll is carried out by the relevant authority (local, regional) depending on which is the supervising authority/tillsynsmyndighet.

An extensive recipient control (monitoring programme) is conducted pursuant to the requirements in the Environmental Code, where it falls under the operators’ own responsibility to describe the environmental impacts that their activities generate. This recipient control is often carried out in a coordinated manner, especially in southern
parts of Sweden. The municipalities have the responsibility for the control of drinking water and associated raw water control.

The water authorities’ monitoring programme reported 2007/2010 was not complete and work is underway to develop better monitoring programmes. The first revision will take place during 2012 and will be reported to WISE. These programmes will be more suited to water bodies, status classifications and environmental problems and get better coverage of district waters. However, it takes time to change all the individual monitoring programmes, such as getting more biological quality elements at the monitoring stations. The next revision of the surveillance and operational monitoring programmes will take place in 2016. The water authorities hope that the enforcement and the work on status assessments will then be more in sync than they are today and that monitoring will include more biological quality elements.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

Different authorities are responsible for surveillance, operational and investigative monitoring, as outlined in the table below (Table 3).

**Table 3: Summary of responsible authorities for surveillance, operational and investigative monitoring**

<table>
<thead>
<tr>
<th>Type of Monitoring</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveillance Monitoring</td>
<td>WA authorities are obliged to ensure that Surveillance Monitoring is being established with the support from the County Administrative Boards.</td>
</tr>
<tr>
<td>Operational Monitoring</td>
<td>WA authorities are obliged to ensure that Operational Monitoring is being established with the support from County Administrative Board.</td>
</tr>
<tr>
<td>Investigative Monitoring</td>
<td>WA authorities are obliged to ensure that Surveillance Monitoring is being established with the support from the County Administrative Board, municipalities</td>
</tr>
</tbody>
</table>

Different authorities are responsible for monitoring the different water categories, as outlined in the table below (Table 4).

**Table 4: Authorities responsible for the different water categories**

<table>
<thead>
<tr>
<th>Water Category</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rivers</td>
<td>WA, County Administrative Board, SwAM</td>
</tr>
<tr>
<td>Lakes</td>
<td>WA, County Administrative Board, SwAM</td>
</tr>
<tr>
<td>Transitional</td>
<td>WA, County Administrative Board, SwAM</td>
</tr>
</tbody>
</table>
### 3 Integration

The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

#### 3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 5).

**Table 5: Summary of responsible authorities for different directives and policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nitrates Directive</td>
<td>Ministry of Environment / EPA</td>
</tr>
<tr>
<td>Bathing Waters Directive</td>
<td>Ministry of Environment / SwAM / SMI(Smittskyddsinstitutet/(Swedish Institute for Communicable Disease Control)</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of social affairs / National Food Administration has main responsibility issues directives, main responsibility with local authorities.</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Ministry of Defence / Myndigheten för Samhällsberedskap (MSB)/Swedish Civil Contingencies Agency. The MSB is the Competent Authority for the directive and is responsible for the legislation and all reporting in Sweden. MSB is responsible for the guidance of the</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority.

Collaboration between agencies is partly regulated as described below and partly there are different types of ‘voluntary’ collaborative agencies and networks. Cooperation between authorities under section 6 of the Administrative Procedure Act: each authority shall provide other authorities help in the context of its own operations.

The following can be found in the Environmental Code and the Environmental Inspections Ordinance:

Ch.26 s.6 of the EC: The supervisory authorities shall collaborate with each other and with government and municipal bodies which exercise supervision in certain areas or otherwise have tasks that are relevant to supervision. The Government or the authority appointed by the Government may issue rules requiring the supervisory authorities to provide any information that is necessary to enable regional or national supervisory authorities to discharge their responsibility for coordination, monitoring and evaluation.

Ch. 1 s.17 of the Environmental Supervision Ordinance (2011:13): The supervisory authorities shall coordinate supervision if it is appropriate and possible. In order to prevent crimes against the Environmental Code and to effectively deal with such crimes, the County Administrative Boards shall foster cooperation between the police authorities, the prosecution authorities, and the authorities responsible for supervision in accordance with the Environmental Code.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 6).
### Table 6: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>National scale: Swedish Board of Agriculture / Jordbruksverket, under the Ministry of Rural Affairs (Landsbygd departementet), engaged in the RBMP. Regional scale: County Administrative Boards / Länstyrelserna, under the Ministry of Health and Social Affairs / Socialdepartementet, engaged in the RBMP.</td>
</tr>
<tr>
<td>Water</td>
<td><strong>Drinking Water</strong> National scale. The National Food Agency / Livsmedelsverket, under the Ministry of Rural affairs (Landsbygd departementet), engaged in the RBMP. Regional scale: County Administrative Boards / Länstyrelserna, under the Ministry of Health and Social Affairs / Socialdepartementet, engaged in the RBMP. <strong>Wastewater</strong> National scale: Swedish Environmental Protection Agency / Naturvårdsverket, under the Ministry of Environment / Miljödepartementet), engaged in the RBMP. Regional scale: County Administrative Boards / Länstyrelserna, under the Ministry of Health and Social Affairs / Socialdepartementet, engaged in the RBMP.</td>
</tr>
<tr>
<td>Energy</td>
<td>National scale: Swedish National Board of Housing, Building and Planning / Boverket, Ministry of Health and Social Affairs, engaged in the RBMP responsible for the implementation of the Energy directive Swedish Energy Agency / Energimyndigheten, under the Ministry of Enterprise, Energy and Communications, engaged in the RBMP, responsible for the implementation of the Renewable energy directive. Regional scale: County Administrative Boards / Länstyrelserna, under the Ministry of Health and Social Affairs / Socialdepartementet, engaged in the RBMP.</td>
</tr>
<tr>
<td>Transport</td>
<td>Swedish Transport Administration, under the Ministry of Enterprise, Energy and Communications, engaged in the RBMP.</td>
</tr>
<tr>
<td>Industry</td>
<td><strong>IPPC</strong> National scale: Swedish Environmental Protection Agency / Naturvårdsverket, under the Ministry of Environment / Miljödepartementet), engaged in the RBMP. Regional scale: County Administrative Boards / Länstyrelserna, under the Ministry of Health and Social Affairs / Socialdepartementet, engaged in the RBMP. <strong>Non IPPC</strong></td>
</tr>
<tr>
<td><strong>Driver / Sector</strong></td>
<td><strong>Responsible Authority</strong></td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>National scale: Swedish Environmental Protection Agency/Naturvårdsverket, under the Ministry of Environment /Miljödepartementetet), engaged in the RBMP. Regional scale: County Administrative Boards/Länsstyrelserna, under the Ministry of Health and Social Affairs/Socialdepartementet, engaged in the RBMP.</td>
<td></td>
</tr>
<tr>
<td>Mining</td>
<td>Ministry of Enterprise, Energy and Communications, with SGU (Geological Survey of Sweden only permit of exploration).</td>
</tr>
</tbody>
</table>

## 4 Participation

The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

### 4.1 Formal mechanisms of consultation

The involvement of stakeholders is stipulated in VFF (ch.2 s.4). Before adopting a decision on RBMP or PoM, the regional water authorities are required to consult with those authorities, municipalities, organisations, operators and individuals who are affected by the decision. Furthermore, the water authorities are required to plan their work in order to enable and encourage participation by all the stakeholders in the management of the quality of the aquatic environment.

The law does not stipulate how such involvement of stakeholders is to be achieved. However, the regional water authorities have locally supported the development of local collaborative bodies, so called water councils (vattenråd). A water council is an association of various stakeholders related to the water in one or more river basin districts. Any organisation with an interest and experience in water issues can take the initiative to call for the creation of a water council. The organisation can apply for funds from the respective water authority to create a water council. The water councils can also apply for an annual contribution from the water authorities.

Before adopting a decision in the area of river basin management, the water authorities are required to hold consultation meetings with stakeholders. The consultations follow a predefined pattern: firstly, the respective water authority gathers information that can sometimes involve consultation with certain groups. Secondly, the water authority produces a report which is then to be issued for consultation over a six month period. During this period, individuals and stakeholders have the opportunity to comment. The RBMP must contain information on how the respective water authority has taken into account and considered the views expressed during the consultations.

As an example, the water authority for the North Sea held three consultations during the management period cycle between 2004 and 2009 and there are more than 20 water councils in that district.
5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
No new authorities have been created as a result of the WFD

Five RBD authorities/Vattenmyndigheter were created for the first cycle; which means one regional authority per RBD hosts the RBD authority.

SwAM was created in 2011 to ensure coordination with the Marine strategy and for national coordination.

The creation of the new RBD authorities corresponded to the new perspective on holistic water management that is not linked to administrative, but to hydrological boundaries.

5.2 Organisation structure
The following diagrams illustrate the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.
Division of responsibilities for water management

**EU-parlamentet och Rådet**
- beslutar bindande rättsakter

**Kommissionen**
- beslutar bindande rättsakter (av 21-kommité)
- samordnar EU-vägledningsarbetet (CIS)

**Riksdagen**
- stifter lagar
- delegerar ansvar
- genomför EG-rätt till svensk lagstiftning

**Regeringen**
- beslutar förordningar och delegerar ansvar

**Miljödepartementet**
- samordnar nationellt och representerar Sverige

**HaV**
- meddelar föreskrifter (ytvatten)
- vägleder
- rapporterar till EU
- samordnar vattenmyndigheterna
- genomför åtgärder i åtgärdsprogram
- genomför övervakning i övervakningsprogram

**SGU**
- meddelar föreskrifter (grundvatten)
- vägleder
- genomför åtgärder i åtgärdsprogram

**Andra berörda centrala myndigheter**
- vägleder inom sina ansvarsområden
- genomför åtgärder i åtgärdsprogram

**Länsstyrelser (21 st)**
- genomför åtgärder i åtgärdsprogram
- genomför övervakning i övervakningsprogram

**Vattendelegationer (5 st)**
- fattar beslut inom vattenmyndigheternas ansvarsområden
- beslutar om miljökvalitetsnormer, förvaltningsplaner och åtgärdsprogram

**Kommuner 290 st**
- bidrar med kunskapsunderlag, prövning, tillsyn, planläggning
- genomför åtgärder i åtgärdsprogram
- genomför övervakning i övervakningsprogram

**Domstolar**
- prövning

**Verksamhetsutövare**
- vidtar åtgärder
- genomför egenkontroll

**Samverkan**
- Vattenråd
- lokal samverkan
- **SamVat**
- nationellt samverkan mellan myndigheter

**Övrig samverkan**
- t.ex. mellan sektorer
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

According to the preparatory work on the PoM and RBMP, the PoMs are comprehensive documents which are binding on the municipalities and authorities. They are administrative decisions without the element of exercise of public authority towards individuals (Prop. 2009/10:184 p. 54). Chapter 5 of VFF on river basin management plans seems to be descriptive and does not give the RBMP any legal effects. It only sets an obligation for the regional water authorities to adopt RBMP and sets the procedure for approval of such plans. The programmes of measures are regulated in chapter 6 of VFF and in the Environmental Code. Until recently, it was not clear whether the PoMs were legally binding. Swedish legislation does not specify which agencies are responsible for the monitoring and enforcement of the measures laid down in the PoM. Chapter 5 s.8 of the Environmental Code requires that agencies and municipalities, within their areas of responsibility, take necessary measures in accordance with the PoM but it was unclear where this binding obligation stemmed from as there were, in principle, no sanctions or other measures for breach of this obligation.

In 2010, the Environmental Code was amended to include additional provisions regarding PoM. The amended ch.2 s.7 of the Environmental Code stipulates that programmes of measures have a legal effect with regard to environmental quality...
standards. The stakeholders affected by this are those who pursue, or intend to pursue, an activity or take a measure (ch.2 sections 2-5 of the Environmental Code).

Sweden has a cascading delegation system where the final decision lays with the regional water authorities. According to ch.5 s.11 of the Environmental Code, the Government may establish river basin management plans or decide that some other authority shall establish such river basin management plans. As stipulated by ch.5 s.1 and ch.6 s.1 of the “Decree on the management of the quality of the water environment” (hereafter VFF), the RBMP and PoM are prepared and enacted by the regional water authorities. According to s.22 of the “Decree with instruction to the county administrative boards”, the following county administrative boards compose the five regional water authorities: Norrbotten County Administrative Board for the Bothnian Bay water district, Västernorrland County Administrative Board for Bothnian Sea water district, Västmanland County Administrative Board for North Baltic water district, Kalmar County Administrative Board for the South Baltic water district, and Västra Götaland County Administrative Board for the North Sea. As stipulated by s.24 of the “Decree with instruction to the county administrative boards”, each water authority shall have a special water delegation which shall decide on issues that lay within the responsibility of the water authority. The water delegation can delegate to the county administrative board to develop RBMP and implement PoM; however, the county administrative authorities cannot make decisions regarding RBMP or PoM.

The procedure for the approval of the RBMP is regulated in chapter 5 of VFF. Section 1 lays down that the RBMP must contain a summary of the water conditions and the management of the quality of the aquatic environment in the district. [It should be noted that the Swedish legislation transposing the WFD focuses on EQS rather than environmental objectives. However, the “generational goal” – the overall goal of Swedish environmental policy, which is intended to guide environmental action at every level in society, includes environmental objectives for water. The Swedish Parliament adopts interim targets, which are now to be replaced with milestone targets, which define steps on the way to achieving the environmental objectives. Furthermore, the respective PoM for the water districts refers to those environmental objectives as the basis for the impact analysis of the proposed PoM. The RBMP also needs to contain all the information specified in annex I of the Decree, such as maps of the river basins, an account of the EQS for surface waters, groundwaters and protected areas, and information about mixing zones. Ch.5 s.4 of VFF regulates the participation of the public. Sections 5 and 6 concern public notice and section 7 stipulates that SwAM (HaV) and the Geological Survey of Sweden may, within their areas of responsibility, issue detailed regulations on how the management plans should be reported.

The procedure for the approval of the PoM is regulated in chapter 6 of VFF.

Ultimately, it is the respective regional water authority that adopts the RBMP and PoM by the virtue of ch.6 s.1 of VFF.

6.1.1 Legal effect
The rank of river basin management plans is unclear. It appears that RBMPs are information decisions that do not have a legally binding status. The programmes of measures are regulated in the Environmental Code. Chapter 5 s.4 of the Environmental Code stipulates that the Government, or the authorities or municipalities chosen by the
Government, shall prepare a draft of a programme of measures if it is necessary to achieve the environmental quality standards.

The RBMP does not have a binding effect in Sweden. The PoM has a binding effect with regard to environmental quality standards. The stakeholders concerned are those who pursue, or intend to pursue, an activity or take a measure (ch.2 sections 2-5 of the Environmental Code). Each of the respective PoM refers to the generational environmental objectives (including environmental objectives for water), which are adopted by the government. These objectives only serve as a guideline and are not binding. However, the municipal authorities are required to work towards the achievement of these environmental quality objectives.

All authorities and municipalities in Sweden are responsible for the implementation of existing environmental legislation, including the implementation of the requirements for precautionary measures, safeguards, etc. necessary for the achievement of good water quality in all waters. This includes of course the achievement of good water status in water bodies. As far as possible, within the framework of each authority's mandate and applicable legislation, requirements for specific measures are enforced on the individuals/entities, and the measures that the authority/municipality is performing or is responsible for are implemented.

Governing for this general environmental work is above all existing legislation (the Environmental Code and related regulations, PBL, infrastructure, legislation, etc.) and each authority/municipality's governing documents (official instructions and the Local Government Act). Then there is the political control of the authorities in the form of annual appropriations, and the indirect control resulting from the allocation of funds, etc. (from the state budget). As part of its respective responsibilities, authorities/municipalities have considerable freedom to choose how, when and where various measures to be implemented and requirements should be enforced. The frames are given, but the actual content of the task work is driven by each authority and municipality. At this level there is really no coordinated, comprehensive control of measures work; every authority/municipality prioritizes and controls the work on their own terms and requirements (resources, their own political priorities, assessments and trade-offs, interpretation of legislation, etc.). With regard to enforcement of measures requirements in relation to individual operators, there is often the aspect that a large number of measures can or shall be tried by the environmental courts before they can take place. This means that authorities and municipalities do not control over the final assessment of which measures that shall be implemented and how; this is done by the courts. The courts are independent in the sense that they cannot be controlled politically in individual cases – they shall apply and interpret the law impartially and independently. If there are, from the political perspective, wishes to amend the application, normally the legislation must be amended; it cannot be achieved with political directives/policy documents to the courts. This means that neither the government, water authorities or the authorities and municipalities responsible for implementing the programs can control how and whether measures can or should be considered by the environmental courts are implemented.

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193 According to the Swedish authorities these "environmental quality standards"/"miljökvalitetsnormer" are equivalent to the environmental objectives of the WFD, and not the "EQS" established for specific chemical pollutants.
It needs to be noted that both the permitting authorities and courts and enforcement authorities shall apply EQS for water, pursuant to ch.5 s.3 of the EC. All measures necessary to comply with the EQS, as long as it is not unreasonable, are required in each individual case (ch.2 s.1 first paragraph of the EC). Regarding measures to comply with the environmental quality standard ‘good surface water chemical status.’

In order to allow authorities and municipalities guidance and more specific control of the water related measure work (to be conducted in order to achieve a good water status in water bodies), the water authorities have the opportunity to, in the PoMs, state which administrative and actual measures that should be implemented in each district to achieve the stated environmental objectives (EQS for water). In the programmes of measures, the water authorities can concretize, for example, which measures that are deemed to be most urgent to implement in each district (or river basin), when they need to be implemented and how the coordination between different authorities and municipalities shall be in the implementation.

In this way, the water authorities’ PoMs, together with the EQS, become complementary policies for the relevant authorities and municipalities. The control is still at the administrative level because the water authorities have not been given a mandate under the law to decide on actions taken by individuals (operators, the public, organisations, etc.) to implement. In other words, it is still central and regional authorities and municipalities that are responsible for the enforcement of environmental law, but in accordance with the priorities for water quality issues established by the water authorities.

6.1.2 Legal status in relation to individual decisions

The RBMP is not binding on other individual (permitting) decisions as it is only an information decision. However, the programmes of measures are indicative for permits with regard to EQS (ch.2 s.7 of the Environmental Code).

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations

Concessions for hydropower installations are regulated in the Environmental Code (chapter 11) and in Act (1998:812) Containing Special Provisions concerning Water Operations. The RBMP is not binding on hydropower permitting decisions, as it is not a binding document. Swedish legislation does not foresee the review of concessions for hydropower installations. Hydropower concessions have a binding power in Sweden and the only way to carry out significant changes is through a judicial concession trial. Some of the hydropower concessions were granted before 1918 and run according to prescription from time immemorial. In these cases it is not always clear what part of the water activity that is regulated, which leads to problems when changes are made which require a change to the concession.

The Environmental Code sets out a number of consideration rules for those who seek permits, including for hydropower installations. The recently amended ch.2 s.7 of the Environmental Code requires that those who seek permits need to follow EQS (more specifically, limit values). For activities which involve increased pollution or disturbance a permit can only be awarded if the activity is consistent with the PoM. Thus, the PoM is
binding on hydropower concession with regard to measures to meet EQS. Although there are no explicit provisions requiring review of the existing permit, this provision is applicable when there is a risk that a limit value will be breached or in cases where it has been breached. Thus, no difference is made whether it is a new or on-going activity. This provision does not apply to activities which only insignificantly breach the limit values (Prop. 2009/10:184 p.74).

**Abstraction for agriculture**

Permits for abstraction for agriculture are regulated in the Environmental Code (chapter 11) and in Act (1998:812) Containing Special Provisions concerning Water Operations. RBMPs are not binding and have no impact on permitting decisions for abstractions for agriculture. The provision regarding PoM and EQS mentioned above for hydropower installations applies also to abstraction for agriculture.

**IPPC and other industrial installations**

Permits for IPPC are regulated in chapter 9 of the Environmental Code, the Waste Disposal Ordinance (SFS 2001:512) and Ordinance on supervision of certain installations (SFS 2004:989). None of these provisions make any reference to RBMP or PoM. However, the general consideration rules in chapter 2 of the Environmental Code are applicable on all who seek permits. Thus, the binding nature of PoM set out in ch.2 s.7 is binding on IPPC and other industrial installations.

**6.2 Relationship with other sectoral policy plans**

The legal relationship between the RBMP and other plans is not regulated in Sweden as the RBMP is not a binding document. However, the Planning and Building Act stipulates in ch.2 s.10, that EQS shall be complied with during planning and zoning and that any decisions adopted under chapter 5 of the Environmental Code shall also be followed. Chapter 5 stipulates the adoption of PoM if it is necessary to meet EQS. Thus, planning and zoning decisions need to take into account the PoM.

Furthermore, when a municipality prepares a draft for a master plan or changes to a master plan, it is required to consult with the county administrative board. The county administrative board is required to make sure that such plans follow the EQS set out in accordance with chapter 5 of the Environmental Code, which, as mentioned above, stipulates the adoption of PoM (ch.3 s.10 of the Planning and Building Act). The same applies to the detailed plans (chapter 5 of the Planning and Building Act).

Ordinance (2009:956) on Flood Risks Management does not make any reference to RBMP or PoM. The flood risk management plans should be developed by the County Administrative Boards.

**7 Enforcement, control, inspection and sanction systems**

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.
7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

Applications are made to the permitting authority. Permits for activities that may damage the environment (miljöfarlig verksamhet) labelled with A shall be issued by the "Land and environment court" (Mark- och miljödomstol), which is the "Permitting authority". Permits for activities that may damage the environment (miljöfarlig verksamhet) labelled with B or C shall be issued by the County Administration (see Ordinance 1998:899 sections 5-6).

This permitting function for B and C activities can also be delegated to the local authorities.

The supervising authority is mainly the Regional authorities.

The Swedish Water Supply and Sewage Tribunal is an adjudicating authority for disputes relating to water supply and sewerage under the Public Water Supply and Wastewater Systems Act (SFS 2006:412) and the Swedish Water Supply and Sewage Tribunal Act (SFS 1976:839). It is not an authority for permit applications.

Permits for water abstraction which requires a permit are issued by the Land and Environmental Courts (Environmental Code, EC, chapter 11). Water discharges are regulated in permits in accordance with chapter 9 of the EC.

Permits (licences) are not coordinated by the main WFD competent authority.

There is an inventory of permits (licences): as the supervising authority, the regional authorities keep a register of permits.

Details on the authorities for different water users are provided in the table below (Table 7).

Table 7: Authorities for different permits

<table>
<thead>
<tr>
<th>Permits</th>
<th>Authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Mostly Local authorities, but some are covered by the Environmental code and fall under the Environmental courts’ responsibility or MPD (environmental assessment departments, miljöprövningsdelegationer). Abstractions for water supply are permitted by the Land and Environmental Courts.</td>
</tr>
<tr>
<td>Impoundments</td>
<td>As above. NB “water activity” (&quot;Vattenverksamhet&quot;) includes impoundments.</td>
</tr>
<tr>
<td>Point source discharges</td>
<td>As above. For Urban waste water treatment plants, the local authorities or Regional authorities issue permits.</td>
</tr>
</tbody>
</table>
As the main supervising authority for all types of permits, the Regional authorities have a key role. All companies which require a permit (water abstraction, impoundment, hydromorphological alteration) provide annually an environmental report to the County Administrative Board (Länsstyrelsen).

### 7.2 Permit applications

The process for application for a permit is described below.

Requests are tried by the Environmental court, or if delegated by the regional authority.

There are different processes for different water uses, as indicated in the table below (Table 8).

#### Table 8: Processes for different permits

<table>
<thead>
<tr>
<th>Permits</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abstractions</td>
<td>Abstraction EC ch.11</td>
</tr>
<tr>
<td>Impoundments</td>
<td></td>
</tr>
<tr>
<td>Point source discharges</td>
<td>Environmentally hazardous activities EC ch.9</td>
</tr>
<tr>
<td>Diffuse pollution measures</td>
<td>EC ch.9</td>
</tr>
<tr>
<td>Hydromorphological alterations</td>
<td></td>
</tr>
</tbody>
</table>

Regarding permits for abstractions, there may be situations in which the applicant for the permit is also involved in water resource management. For activities falling under the "Public Water Supply and Wastewater Systems Act" (2006:412) complaints about abstraction, water supply or waste water including charges for those services, can be taken to the Swedish Water Supply and Sewage Tribunal in the first instance, later to the "Land and environmental court".

Regarding permits for impoundments, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

Regarding permits for point source discharges, diffuse pollution measures and hydromorphological alterations, it is unclear whether there could be situations in which the applicant for the permit is also involved in water resource management.
7.3 Enforcement of permits: authorities

Enforcement is carried out by county administrative boards (länsstyrelser) and municipalities (kommuner), in accordance with ch.2 s.29 and 31 of the Environmental Supervision Ordinance. The county administrative boards and municipalities are responsible for the enforcement and control of permits that have been issued pursuant to the Environmental Code (EC) (ch.26 s.1 of the EC).

The supervisory authorities report suspected crimes to the police and prosecutors. In addition, the supervisory authorities may initiate proceedings if they assess that the conditions in the water-related permit are not sufficient (ch.26 s.2 of the EC). The authorities may also issue injunctions and prohibitions to ensure compliance with the provisions of the EC and rules, judgements and other decisions thereof (ch.26 s.9 of the EC).

The Swedish Agency for Marine and Water Management (SwAM, in Swedish Havs- och Vattenmyndigheten, HaV), which was created in July 2011 and took over the responsibilities from other authorities relating to water issues, is the lead authority for developing guidance on the enforcement of water-related permits (ch.3 s.5 para.1 of Ordinance (2011:13) on Environmental Supervision), together with Swedish National Grid, a state-owned public utility, which is responsible for guidance on enforcement of dam security (ch.3 s.3 of the Environmental Supervision Ordinance).

As noted above, the county administrative boards (länsstyrelser) and municipalities (kommuner) are the main authorities for enforcement.

It is unclear if there are separate authorities responsible for enforcement of different economic sectors.

The county administrative boards and the municipalities are responsible for enforcement across the most important economic sectors. Specific details, however, were found only for IPPC facilities.

IPPC/Industry: For IPPC facilities, the County Administrative Boards are responsible for the enforcement of the permits. However, if a municipality requests it, the County Administrative Board may transfer the supervisory responsibility to the municipality under the condition that the municipality has the personnel resources and competences required. The Agriculture Agency also shares responsibility on agricultural IPPC facilities.

Agriculture: County Administrative Boards and the Rural Affairs Ministry supervise; on the Nitrates Directives, the Rural Affairs Ministry and the Agriculture Agency are responsible.

Hydroelectric facilities: normally the County Administrative Board

Mining: normally the County Administrative Board

Other: County Administrative Boards and municipalities supervise

The supervision authorities are the County Administrative Boards on the regional level and the municipalities on the local level. Their responsibility is set in the Environmental Supervision Ordinance (2011:13).
Local authorities (the environmental boards, which are part of the municipal authorities) are responsible for checking the compliance with good agricultural and environmental conditions (GAEC) under the CAP.

Local authorities are mostly involved in environmental enforcement while the police have the responsibility in criminal cases (environmental crimes). There are specially trained police officers in environmental issues who deal with such crimes. These police officers work together with environmental prosecutors.

There are not separate authorities responsible for the enforcement of different types of water-related permits.

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities

Authorities are required to coordinate their work (ch.26 s.6 of the EC). According to SwAM/HaV, there are two types of coordination: coordination between different authorities that have enforcement authority over the same company (e.g. if the same company operates in different municipalities); and so-called environmental cooperation. The aim of the environmental cooperation is to streamline the application of environmental requirements generally. Currently, environmental coordination takes place both regionally and nationally. Nationally there is 'Environmental Coordination Sweden' (Miljösamverkan Sverige) which is a forum for training for officials working on environment and coordinating body on coordination and guidance on environmental supervision for the administrative county boards. It organises coordination meetings and guidance materials. It is not an authority but a voluntary association. SwAM has the overall responsibility for coordination. The local authorities can also cooperate through the Swedish Association of Local Authorities and Regions. All local authorities are independent, and no other authority can decide over the other, if it is not a judicial review. Therefore the coordination is not so strong.

#### 7.4.2 Between enforcement and water management authorities

The enforcement authorities and water management authorities are separate entities. Environmental Coordination Sweden (Miljösamverkan Sverige) provides a mechanism for coordination between SWaM/HaV, the key water management authority, and the county boards responsible for enforcement. Normally the water management and the enforcement authority are placed at the same regional authority but as different authorities. They coordinate their work. When the enforcement authority is the local administration, the water management trains the local authorities through seminars. The water management can only inform the other authorities and has no power to decide for them. Coordination could, however, be improved.

### 7.5 Enforcement actions

#### 7.5.1 Number of inspectors

A 2003 national report indicates that Sweden had 1250 FTE personnel for environmental enforcement in 2002, and they spend about one-fifth of their working time on inspection and enforcement activities related to permits. This refers to personnel across all areas of environmental enforcement. More recent data have not been found.
7.5.2 Number of inspections
A 2003 report states that in 2002, 3700 permitted installations in Sweden (out of 5500 total) were inspected. More recent data were not found.

7.5.3 Number of infringement actions
In 2002, enforcement authorities issued 750 injunctions and 135 environmental sanction fees. More recent data were not found.

7.5.4 Other mechanisms (in addition to inspections)
The activities must conduct self-monitoring; there are self-monitoring systems. All businesses holding a permit shall submit an environmental report once a year. Each operator has to monitor their own activities and to report disruptions to the supervisor authority (chapter 26 paragraph 19 in the Swedish environmental code.

7.6 Types of administrative and criminal sanctions

7.6.1 Sanctions established in national legislation
In Sweden, sanctions are divided in three sub-categories: administrative sanctions (environmental sanction charges and conditional fines); criminal sanctions (fines and imprisonment); and so-called ‘legal consequences of crime’ (forfeiture, corporate fines and trade prohibition).

Administrative sanctions include the power to issue injunctions and prohibitions with or without fines (ch.26 s.9 and14 of the EC), to ensure compliance with legal rules, permits and decisions.

An environmental sanction charge (miljösanktionsavgift, MSA), an administrative charge that can be imposed directly by a supervisory authority, can be issued pursuant to Ordinance (1998:950) on Environmental Sanction Charges. The MSA is based on the principle of strict liability and can, thus, be imposed regardless of negligence or intent. The ordinance lists the cases where such charges can be imposed. With relation to water activities, MSA can only be imposed for starting a ‘sewer facility’ without a permit (if a permit is required) or without submitting a notification on starting a ‘sewer facility’ where such notification is required. Pursuant to points 2.1.1 a) and c) of the annex to the above ordinance, the amount of MSA in such cases is 5000 SEK and 3000 SEK respectively (EUR 550 and EUR 350, as of 3 May 2012).

A range of violations can be subject to criminal sanctions. The competent authority reports suspected crimes to the police or prosecutor (ch.26 s.2 of the EC) for possible court action.

Changes to water levels of ground or surface waters which cause or may cause damage to human health or the environment (regardless of permit) are subject to criminal sanctions, which are fines or term of imprisonment not exceeding two years. If the crime is serious, the term of imprisonment is between six months and six years (ch.29 s.1 of the EC). Illegal emissions of substances into water which cause or may cause damage to human health or the environment are subject to criminal sanctions, which are fines or term of imprisonment not exceeding two years. If the crime is serious, the term of imprisonment is between six months and six years (ch.29 s.1 of the EC). Legal persons are subject to corporate fines for the above offences (ch.36 s.7 of the Penal Code, PC).
Starting an operation without a permit or notification, which requires a permit or notification pursuant to the provisions on water-related permits set out in chapter 11 of the EC, is punishable by fines or term of imprisonment not exceeding two years (ch.29 s.4 of the EC). Providing false information when applying for a permit where the information has significance from a health and environmental protection point of view is punishable by fines or imprisonment not exceeding two years (ch.29 s.5 of the EC).

There are three types of criminal sanction fines which can be imposed: day-fines, summary fines, and standardised fines (ch.25 s.1 25 of the Penal Code, PC). If a particular form of fine is not prescribed, fines shall be imposed as day-fines. Day-fines shall be determined in a number to at least 30 and at most 150 (ch.25 s.2 of the PC). Each day-fine shall be imposed as a fixed amount from 30 up to 1000 SEK (EUR 3,4 up to EUR 115 per day), having regard to what is reasonable and taking into account the income, wealth, obligations to dependants, and other economic circumstances of the accused. The amount of the day-fine may be adjusted due to special reasons. The lowest amount for a day-fine is 750 SEK (EUR 85). Corporate fines can be imposed with the amount between SEK 5000 to SEK 10.000.000 (EUR 550 to EUR 1.100.000), ch.36 s.8 of the PC.

7.6.2 Sanctions normally brought for water violations
The most common sanctions are administrative sanctions such as fines.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
Self-monitoring poses a great responsibility on the operator to report errors or omissions which has led to an increased environmental awareness. Environmental reports present the environmental impact of the activity and that all applicable conditions are met.

7.7.2 Weaknesses of the system of inspections and enforcement
There is a need for more efficient data collection of measurements. Nationally integrated computerisation is underway. Industries and small activities are well covered, while hydroelectricity, which is hardly covered.

7.7.3 Influence of the WFD and the RBMPs on enforcement
No information was found regarding whether the RBMPs have strengthened enforcement.

All water activities are reviewed under chapter 11 of the EC, either by the Land and Environmental Courts or by the County Administrative Boards. Yes, among other things, the water delegations to the respective water authorities have adopted decisions on environmental quality standards for status for each water body in Sweden (about 27 0000 and 2 norms for each water body) to ensure that the objectives of the WFD are achieved. These standards are legally binding and shall be achieved/maintained.

Guidance has been developed (see http://www.havochvatten.se/download/18.64f5b3211343ccfdd2b2800042592/MKN_och_%C3%85P_vatten_inom_tillsynsarbetet%5B1%5D.pdf) to support, primarily, the supervisory authorities in their work with supervision of activities which can have an impact on environmental quality standards for water. The guidance also covers enforcement and inspection.
8 References

Decree on the management of the quality of the water environment (Förordning (2004:660) om förvaltning av kvaliteten på vattenmiljön).

Decree with instruction to the county administrative boards (Förordning (2007:825) med länsstyrelseinstruktion).


Email L.Sorby, HAVS OF 15.4.2012

The Environmental Code, chapters 11, 26 and 29;

Environmental Code; Environmental Supervision Ordinance

Environmental Code, Ordinance on Self-Monitoring

Environmental reporting regulation

EQS in general: http://www.vattenmyndigheterna.se/Sv/om-vattenmyndigheterna/vattenforvaltningens-arbetscykel/miljokvalitetsnormer/Pages/default.aspx


Guidance on the application of EQS: http://www.havochvatten.se/download/18.64f5b3211343cffddb2800042592/MKN_och%C3%85P_vatten_inom_tillsynsarbetet%5B1%5D.pdf

http://www.havochvatten.se/

Information on RBMP is available on the website of the Swedish Marine and Water Management Agency (Havs- och Vattenmyndigheten, SwAM): www.havovatten.se (on 1 July 2011 SwAM took over the responsibility for water management from the Swedish Environmental Protection Agency); and the Swedish Environmental Protection Agency (Naturvårdsverket): www.naturvardsverket.se.

Interview with Anneli Harlen, SwAM and Sara Grahn, SwAM

The letter of appropriation for SwAM (Regleringsbrev för budgetåret 2011 avseende Havs- och vattenmyndigheten) can be found on http://www.havochvatten.se/download/18.312592e01301d753523800015219/Havochvatten_regleringsbrev.pdf.

Miljösamverkan Sverige: http://www.miljosamverkansverige.se

http://www.naturvardsverket.se/sv/start/naturvard/vattenforvaltning/


The Penal Code, chapters 25 and 36


The preparatory work ‘Programme of measures and compliance with environmental quality standards’ (Prop. 2009/10:184) can be found on http://www.regeringen.se/sb/d/108/a/142980.

http://www.regeringen.se

Reply MS Feedback Letter


http://www.sgu.se

Swedish Environmental code, Miljöbalken, chapter 5, sections 4, 5, 6; chapter 9, section 8, third paragraph and EC chapters 11 and 26

Swedish Environmental Protection Agency, Environmental Inspections in Sweden 2002, Report 8139, September 2003. SWaM/HaV (http://www.havochvatten.se) and other web sites.

(Vattnenmyndigheterna) The national water river basin management plans are available on the website of the regional water authorities: www.vattenmyndigheterna.se.

http://www.vattenmyndigheterna.se/Sv/om-vattenmyndigheterna/organisation/Pages/default.aspx


Webpages of SwAM, SGU and RBD authorities.
Webpage of the Swedish Water Supply and Sewage Tribunal.  
http://www.vanrnmanden.se/om/default.asp

Webpage of the Water Authority for Skagerrak and Kattegat, section "Water issues in the law".  
http://www.vattenmyndigheterna.se/Sv/vasterhavet/beslut-fp/sammanf-agp/Pages/vattenfragor_lagstiftning.aspx
Member State Governance Fact Sheet: SLOVENIA

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1 Administrative Arrangements: Water Authorities

Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of Agriculture and the Environment</td>
<td>Inspectorate for Agriculture, Forestry, Food and the Environment (AKA Environmental Inspectorate), Slovenian Environmental Agency</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Agriculture and the Environment, Government of the Republic of Slovenia</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Slovenian Environmental Agency</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Ministry of Agriculture and the Environment, Slovenian Environmental Agency</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Environmental Inspectorate</td>
<td>Slovenian Environmental Agency, Government of the Republic of Slovenia</td>
</tr>
</tbody>
</table>

The main competent authority responsible for the implementation of the WFD is the Ministry of Agriculture and the Environment (hereafter MAE).
The Environmental Inspectorate is one of the so-called “administrative bodies established within a ministry” – in this case within the Ministry of Agriculture and the Environment. Namely, the organisational structure of each Slovenian ministry consists of two types of bodies: the organisational units and the administrative bodies established within the ministry. The main difference between the ministry’s organisational units and its administrative bodies is in their relative autonomy: the organisational units are internal organisational parts of the ministry without any administrative independence whereas the administrative bodies have relative decision-making autonomy: they issue administrative decision in the 1st instance. The Minister, within whose ministry the administrative body is established, is the appellate instance in those administrative procedures.

Another important institution is the Slovenian Environmental Agency (hereinafter sometimes also called with its acronym ARSO). Like the Environmental Inspectorate, ARSO is also an administrative body, established within the Ministry of Agriculture and the Environment. With regard to water-related permits, ARSO’s main responsibility is the issuing of water permits: ARSO issues these permits and keeps the registry of permit holders. Its enforcement duties are mostly related to control: ARSO is responsible for the monitoring of water and the activities of permit holders. The holders of water permits also have self-monitoring duties: they have to prepare annual reports on the use of their water rights and to send them to ARSO. ARSO cannot impose sanctions for the violations of water permits but must report these to the Environmental Inspectorate. However, ARSO may revoke a particular water permit if an environmental inspector has issued a decision which shows that the holder of this permit has violated its conditions or the prescribed rules for the use of water.

1.1 Division of responsibilities
The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.).

1.2 Authorities involved in preparing and approving the RBMPs
WMP (covers both RBDs in Slovenia) is prepared by the Ministry of Agriculture and the Environment and is adopted by the Government of the Republic of Slovenia (the Government).

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs. (MAE is the responsible also for preparing PoM according to Water Act. MAE cooperated with other authorities where measures intervened with their competences. Authorities are evident from description of each measure in PoM in the field describing “implementation of measures”.)

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.
2.1 Authorities responsible for Monitoring
The authority that requests monitoring is the MAE - Slovenian Environmental Agency.

Monitoring is undertaken through a mixture of both the authority’s own facilities and staff and a contracted service.

The Slovenian Environmental Agency is responsible for all three types of monitoring (surveillance, operational and investigative). Monitoring of water is regulated under environmental monitoring under Environment Protection Act.

The Slovenian Environmental Agency is responsible for monitoring in all water categories (rivers, lakes, transitional, coastal, groundwater).

3 Integration
The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.

3.1 Integration with other Directives / Policies
The responsible authorities for each directive / policy are named in the table below (Table 2).

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>MAE</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>MAE</td>
</tr>
<tr>
<td>Bathing Waters Directive</td>
<td>MAE</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry for health</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>MAE</td>
</tr>
<tr>
<td>Marine Strategy Framework Directive</td>
<td>MAE</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>MAE</td>
</tr>
<tr>
<td>Climate</td>
<td>MAE</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. For the first RBMP Ministry for health has provided data and comments to RBMP. Some improvements in the data sets are envisaged.
3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (Table 3).

**Table 3: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>MAE</td>
</tr>
<tr>
<td>Water</td>
<td>Drinking Water</td>
</tr>
<tr>
<td></td>
<td>Ministry for health</td>
</tr>
<tr>
<td></td>
<td>Wastewater</td>
</tr>
<tr>
<td></td>
<td>MAE</td>
</tr>
<tr>
<td>Energy</td>
<td>Ministry of Infrastructure and Spatial Planning</td>
</tr>
<tr>
<td>Transport</td>
<td>Ministry of Infrastructure and Spatial Planning</td>
</tr>
<tr>
<td>Industry</td>
<td>IPPC</td>
</tr>
<tr>
<td></td>
<td>MAE</td>
</tr>
<tr>
<td></td>
<td>Non IPPC</td>
</tr>
<tr>
<td></td>
<td>MAE</td>
</tr>
<tr>
<td>Mining</td>
<td>Ministry of Infrastructure and Spatial Planning</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. For the first RBMP other ministries have provided data and comments to draft RBMP. Competent authorities have cooperated in the creation of most efficient measures in their areas of responsibilities and have coordinated their roles in implementation of PoM. The roles of different CAs are described for each measure in PoM.

4 Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

4.1 Formal mechanisms of consultation
The consultation and involvement of the public and stakeholders in the preparation and adoption of WMP is regulated in the Water Act. The Act prescribes the establishment of Water Conferences for each river basin: their members are municipalities, the holders of water rights (see Q 2b below), and NGOs from the river basin area. The Water Conference elects a 25-member Council. The Council is a representative body, which represents the members of the Water Conference in the preparation of WMP and later also participates in the monitoring of its implementation. The Council consists of 25
representatives, 10 of whom are from municipalities, 10 are holders of water rights, and five are NGO representatives.

This does not mean that other stakeholders – for example the users of water that do not hold water rights – cannot actively participate in the preparation of WMP. They may participate in public participation procedure as members of the public (the Water Act does not differentiate between public in general and "public concerned"). The public participation procedure, as prescribed by the Water Act, is the following:

- The preparation of WMP starts with the adoption of a work programme by the Minister for Agriculture and the Environment, which (among other) has to define "organisations and ministries, which will participate in the process of preparation of WMP with their expert studies". The Minister also forms a (usually inter-ministerial) work-group responsible for the preparation of the WMP.

- At least three years before the period to which the WMP refers, the Ministry has to publish the announcement about the preparation of WMP on the internet and in one national daily newspaper. The announcement also has to contain a work programme, a timetable and a statement of the consultation measures to be taken. Although not prescribed by law, in the process of preparation of the current WMP the stakeholders from the Council were personally invited to participate in each phase of the procedure.

- After the announcement has been published, the members of the public have a one year period for supplying their comments and proposals. Two years before the beginning of the period to which the plan refers, the Ministry prepares and presents to the public an interim overview of the significant water management issues identified in the river basin, and presents it to the public.

- At least one year before the beginning of the period to which the plan refers, the Ministry prepares a draft of WMP and presents it to public consultation. The members of the public may file their comments or proposals in six months after publication of the draft plan. The Ministry must inform the public about the manner in which the comments and proposals of the public were accounted for in the final plan.

The most important measures for the implementation of WMP are the programmes of measures (PoM), which are adopted by the Government on the basis of the WMP. The participation of the public in the preparation of PoMs is not regulated. In practice, though, the currently valid POMs were prepared in parallel with the WMP 2009 - 2015, and were also presented to public consultation in the same manner as the WMP itself. The public therefore had the same opportunities to comment and influence the POMs as with the WMP.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD. In addition, no significant changes have been made to existing authorities as a result of the WFD.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

In general, WMP derives its legal effect from the fact that it is adopted in the form of a decree (and not in form of a “resolution”, “strategy” or any other legal form in which policy acts without direct effect are usually adopted). Since WMP has been adopted by a WMP Decree, it is a general legal act which means that legal acts which are hierarchically below it must conform to it (see above). WMP is thus binding for all legislators when preparing other implementing legislative acts or policy documents.

The fact that WMP is adopted by a decree and is thus a legislative act does not automatically give it a direct legal effect in administrative procedures. The direct legal effect of WMP is regulated in the Water Act, especially in relation to the water rights. The water rights are the most important mechanism to control the use of water. A water right must be obtained for any special use of water, which means for any use that exceeds the ordinary use, and also for the extraction of alluvium and of ground water.

Such special use of water may "be prohibited, limited or specially prescribed, if it could endanger the attainment and maintenance of water management objectives" (Article 18(5) of the Water Act). These objectives are primarily defined in the WMP, especially in the Articles 5 – 9 of the WMP Decree.

The water right for special use of water can be obtained on the basis of water permit or a concession (Article 108). In both procedures, WMP has to be taken into account:

- the Ministry issues a water permit only if the proposed use is in accordance with the WMP (Article 127(1) of the Water Act);
- the concession for the special use of water is granted by the Government. It must be granted "in accordance with the criteria and conditions, prescribed in governmental legal acts and in WMPs" (Article 137(2) of the Water Act). The concession can thus only be delivered if it is in accordance with WMP.

The adoption of a new six-year WMP may set new criteria for the special use of water. The existing water rights may thus have to be amended accordingly. A water permit has to be changed by the Ministry ex officio if "the prescribed criteria for the use of water have changed" (Articles 129 - 131 of the Water Act). Likewise, the concession must be changed "if the prescribed conditions for the use of water or alluvium have changed" or if "this is required in the public interest of water protection" (Article 145 of the Water Act).

Another important mechanism of the Water Act are "water approvals": a water approval is necessary for any encroachment in physical space that could permanently or temporarily affect the water regime. Such encroachment is usually in the form of the construction of buildings and other installations, but may also encompass other operations and activities in the fields of mining, forestry, agriculture etc. Water approvals are issued by the Ministry and are binding. For example: in case of construction, the water approval must be obtained by the developer prior to the building permit. The building permit cannot be issued if such approval has not been issued beforehand. Although not specified in the Water Act, WMP has to be taken into account...
by the Ministry in the water approval procedure. If environmental impact assessment is needed for an installation, WMP also has to be taken into account in this procedure.

The Water Act does not differentiate between different parts of WMP with regard to their legal effect. Any part of a WMP can be interpreted as a clearly written norm and which can be clearly implemented in the administrative procedure, also has a direct legal effect. Such norms are the most clearly formulated in the WMP Decree, especially in the aforementioned Articles 5 to 9. This does not mean that other content of WMP, if it is presented as a clear legal norm, does not have direct legal effect. With regard to the environmental objectives, they do not seem to be formulated in a manner in which they could be used as a basis for decision-making in administrative procedures.

In Slovenia, only one river basin management plan exists, which covers both Slovenian river basins. It is entitled the “Water management plan for Danube and Adriatic Sea river basins 2009 - 2015” (WMP). The content of WMP and its preparation and the adoption procedure are prescribed by the framework Water Act and are further defined in its implementing “Decree on the detailed content of water management plan and on the method of its preparation”. WMP is prepared by the Ministry of Agriculture and the Environment and is adopted by the Government of the Republic of Slovenia (the Government). The Government adopts the WMP in the legal form of a decree: the current WMP is adopted by the “Decree on the water management plan for the Danube and the Adriatic Sea river basins” (WMP Decree). The WMP Decree is fairly short and only has 12 articles. The actual WMP is a much longer document and a form of annex to the WMP Decree.

6.1.1 Legal effect
As mentioned above, the WMP is adopted by decree. In the hierarchy of Slovenian legal acts, a decree is the highest implementing legal act:

- The Constitution is the highest ranked legal act and is adopted by the National Assembly;
- Under the Constitution, the statutory acts – the Statues (zakon) are also adopted by the National Assembly;
- The next category ‘implementing regulations’ groups decrees (uredba) adopted by the Government and rules (pravilnik) adopted by the various ministries;
- Finally, the municipal bylaws are the ordinances (odlok) adopted by the Municipal Councils.

Hierarchically, a decree is below both types of general legal acts adopted by the National Assembly: the Constitution and statutes. Decrees are implementing legal acts with which the government implements the statutes. The Decrees must be based on a statute and conform with it. Of the two types of implementing legal acts issued on the national level, the decree (issued by the Government) is hierarchically above the rules, which are issued by various ministries. The rules are adopted for the implementation of statutes and decrees, and they must be in conformity with them. The same is true of the local bylaws (ordinances): they have to be in conformity with all national legislative acts.

The RBMP is regulated in the Water Act (additional information in sections above and below).
6.1.2 Legal status in relation to individual decisions

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations**

Hydropower installations can only be constructed with a concession for the use of water, which is granted by the Government. As mentioned above, the criteria and conditions, prescribed in WMPs, have to be observed in the concession procedure. A water approval will also be needed for any hydropower facility. As explained above, there are also some general requirements to review the concession if new criteria are set by the new WMP for special use of water.

The concessions for the operation of the hydropower installations with the maximum rated capacity under 10 MW are granted for 30 years. For plants with a higher rated capacity, the concession period may be longer, up to a maximum of 50 years (Article 136 of the Water Act).

**Abstraction for agriculture**

For the abstraction of water for agriculture, a water permit for the use of water is necessary (Article 125 of the Water Act). Any facility or operation will also need a prior water approval (Article 150). As mentioned above, water permit and water approval may only be granted if they conform to the WMP or must be reviewed if necessary following the adoption of a new six-year WMP. Water permits are issued for a limited amount of time, up to a maximum of 30 years (Article 126 of the Water Act).

**IPPC and other industrial installations**

If for an operation of an IPPC installation or another industrial installation a special use of water is required and thus a water permit or a concession is needed, the criteria for granting water rights described above will apply. For example: in accordance with the Water Act, a concession is needed for the use of water in the beverage sector, for operation of ports and docks, for the extraction of alluvium, and for the use of mineral or thermal water (Article 136 of Water Act). For other technological use of water in industrial installations, a water permit is required—this permit will be issued as a part of an IPPC permit, whereas the provisions of WMP will be taken into account. As mentioned in the preceding paragraphs, the maximum validity of concession is 50 years, whereas the maximum validity of water permits is 30 years.

For water discharge from installations, an environmental permit has to be obtained. In case of IPPC installations, such a permit is a part of a comprehensive IPPC permit.

If IPPC and other installations will have an effect on the water regime, a water approval will be necessary for such facilities (Article 150 of the Water Act) or must be reviewed if necessary following the adoption of a new six-year WMP.

6.2 Relationship with other sectoral policy plans

The relationship between the WMP and other plans and policy documents is regulated in the Water Act.
The first to be considered is the relationship between the WMP and the policy act which is hierarchically above it: the National Water Management Programme (NWMP). In accordance with the Water Act, WMP is adopted for the implementation of the NWMP, which is the highest policy act in the field of water protection and water management. NWMP is adopted by the National Assembly in form of a “resolution”, which is not a general legal act and thus does not have a binding effect. So although WMP should be prepared in accordance with the policy as laid in the NWMP and for its implementation, this cannot be legally enforced. For example: the Constitutional court cannot review the concordance of WMP with the NWMP since NWMP is not a general legal act. The concordance of WMP with the NWMP is thus a matter of good governance and not of legal order.

The second is the relationship between WMP and other sectorial policy acts and plans which are not hierarchically above it. The WMP Decree states that the whole WMP is considered to be an (somewhat awkwardly named) "environmental baseline" in the field of water management (Article 1(3) of WMP Decree). The environmental baseline is a term introduced by the Environmental Protection Act: it denotes environmental protection objectives "on the basis of which the plans, programmes and other acts in the sectors of spatial planning, water management, forestry, hunting, fisheries, mining, agriculture, energy production, industry, transport (...) are prepared and assessed" (Article 39 of Environmental Protection Act). The Act does not specifically state that such "environmental baseline" is binding, but that it should be used in the preparation of these plans and programmes and in their environmental assessment. The proper consideration of WMP (as an environmental baseline) in other plans is safeguarded by two mechanisms:

- with regard to plans and programmes which are subject to strategic environmental assessment (SEA) procedure in accordance with the Directive 2001/42/EC on the assessment of the effects of certain plans, the environmental baseline is the basis for the assessment of these plans (Environmental Protection Act, Article 41);

- for spatial and urban plans, additional safeguards are in place: the Ministry of agriculture and the environment gives its guidelines and opinions in the process of their preparation and its opinions before their adoption.

All spatial plans are legislative acts, most of them also have a direct effect (the types of spatial plans and the planning procedure are primarily regulated in the Spatial Planning Act. Spatial plans are prepared either by the Government (national spatial plans) or by the municipal administration (local spatial plans). The planning procedure begins with a decision of the planning authority to prepare the plan. After the draft plan is prepared, the planning authority sends it to other concerned institutions for their guidelines. The Ministry of Agriculture and the Environment, which is responsible for water management, protection and its use, is one of these "concerned institutions", and thus issues the guidelines for the preparation of the spatial plan. When issuing the guidelines, the WMP should be taken into account.

After obtaining the guidelines from the concerned institutions, the planning authority adapts the draft plan and presents it to the public. After the public presentation and hearings, the final version of the plan is prepared and sent again to all concerned institutions, including the Ministry of Agriculture and the Environment. The concerned institutions must issue their opinions about the content of the plan (especially if their
guidelines were respected). If all opinions are positive, the spatial plan may be adopted. If one or more negative opinions are issued, the question is delegated to the Government, which decides on the conformity of the national or local plan with the particular guidelines or opinion.

With regard to the plans in the water sector, the flood risk management plans have to be prepared in accordance with WMP (Article 60.a of the Water Act). Flood risk management plans are regulated in the Decree on establishment of flood risk management plans, which specifically states that the flood risk management plan should be prepared in accordance with the environmental goals of WMP (Articles 15 and 16). The authorities responsible for the preparation and adoption of these plans are the same as those responsible for the WMP: the flood risk management plans are prepared by the Ministry of Agriculture and the Environment and are adopted by the Government. The timing of adoption of flood risk management plans is synchronised with that of the WMP: the first flood risk management plans have to be adopted and published by the end of 2015, and must be updated every six years, beginning with the end of 2021.

7. Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are described below.

Ministry of Agriculture and the Environment; Government are responsible for all the above mentioned administrative procedures.

The water right for special use of water can be obtained on the basis of water permit or a concession (Article 108 of Water Act). In both procedures, WMP has to be taken into account:

- the Ministry issues a water permit only if the proposed use is in accordance with the WMP (Article 127(1) of the Water Act);
- the concession for the special use of water is granted by the Government. It must be granted "in accordance with the criteria and conditions, prescribed in governmental legal acts and in WMPs" (Article 137(2) of the Water Act). The concession can thus only be delivered if it is in accordance with WMP.

A concession is one of the two forms of water-related permits in which a water right (which is a right for the use of water) may be granted: the other, and much more common, is a water permit. The use of one or the other instrument depends on the purpose of the use of water for which a water right is required. A water permit is necessary for the following uses of water:

- the supply of drinking water,
- bathing areas activities,
- technological purposes,
- production of heat,
- sport fishery services,
- agricultural irrigation,
- the propelling of water mills and other installations,
- the cultivation of freshwater and marine organisms (fish etc),
- the production of artificial snow for skiing areas,
- for ports and anchorages
- and for the production of electricity in hydropower plants with less than 10 MW rated power.

A concession is necessary for the following uses of water:

- the use of thermal water for thermal baths, heating and similar uses,
- the production of beverages,
- the production of electricity in hydropower plants with more than 10 MW rated power,
- and the extraction of alluvium (gravel and sediment) from the water.

Water permits are issued upon the application of the applicant by an administrative decision. These decisions are issued by the Ministry of the Agriculture and the Environment; within the Ministry, ARSO is responsible for that. The maximal duration of water permit is 30 years.

The procedure for granting the concession is more complex. In the first stage, the Government of the Republic of Slovenia adopts a decree (called a concession act), in which the content of the concession is defined, including the environmental and other conditions that have to be observed in the use of water, and the manner of the management and use of water. After that, a public tender procedure takes place, which results with the administrative decision, issued by the Government, with which the concession is granted to the best bidder. The Government and the person that acquired the concession also have to sign a concession agreement, in which the obligations and rights of both parties are defined, especially with regard to the payment of the concession fee. The maximum duration of concession is 50 years.

Physical development activity that might permanently or temporarily affect the water regime may only be carried out on the basis of water consent (Article 150 of the Water act).

Environmental Permits (according to Environmental Protection Act) are issued by MAE-Slovenian Environmental Agency for point source pollution. ([http://okolje.arso.gov.si/onesnazevanje_voda/vsebine/okoljevarstvena-dovoljenja](http://okolje.arso.gov.si/onesnazevanje_voda/vsebine/okoljevarstvena-dovoljenja))

Diffuse pollution from agriculture is governed in accordance with Decree concerning the protection of waters against pollution caused by nitrates from agricultural sources (Ur.I. RS, št. 113/2009).

Permits (licences) are coordinated by the main WFD competent authority

There is an inventory of permits (licences)
According to Rules on Water Book (Ur.l. RS, št. 10/2012) water rights are published at the web page of Slovenian Environmental Agency (http://gis.arso.gov.si/atlasokolja/profile.aspx?id=Atlas_Okolja_AXL@Arso).


Diffuse nitrate pollution from agriculture (http://www.mko.gov.si/si/delovna_podrocia/voda/nitratna_direktiva/).

Collection and treatment of urban waste water is the responsibility of the municipalities but the preparation and management of investments in the municipal and water infrastructure at the MAE takes place within the framework of the Environment Cohesion Fund and Water Fund.

**7.2 Permit applications**

The process for application for a permit is described below.

Physical development activity that might permanently or temporarily affect the water regime may only be carried out on the basis of water consent. Chapter 7 of the Water act is covering this issue. Procedure for issuing of water consent is mainly laid down in Article 153 of the Water Act:

1. The investor or, under the investor’s authorization, the design engineer shall file the application for water consent in the cases of construction or alteration of function referred to in the first paragraph of Article 151a of this Act. Application for water consent shall be accompanied by that part of the design for acquiring the building permit which is related to the subject matter of consent, the main file, architectural plan and other elements required for issuing the water consent as provided by the conditions for issuing the water consent.

2. A natural or legal person intending to implement a physical development activity shall file the application for water consent in the cases referred to in the second paragraph of Article 151a of this Act. Application for water consent shall be accompanied by the solutions related to the subject matter of consent and other elements required for issuing the water consent as provided by the conditions for issuing the water consent.

3. The ministry shall issue a water consent within 30 days of the receipt of a complete application in the case of a complex and water facility, or in 15 days, respectively, in the case of a simple, undemanding or less complex facility. The time period applying to the issuing of water consent shall cease to run during the period from the convening of oral proceedings or site survey to the conclusion of oral proceedings or site survey.

4. Notwithstanding the provisions of the preceding paragraph, the time limit for issuing a water consent shall be 60 days as of the receipt of a complete application in the cases when a decision on the creation of a de facto easement needs to be made if the planned activity affects a water or waterside land under the management of the ministry.

5. If a decision on the issuing of water consent concerning the physical development activities referred to in the first paragraph of Article 151a is not made by the time limit referred to in the third paragraph of this article, it shall be deemed that the water
consent has been given, except if an activity affecting a water or waterside land under the management of the ministry is concerned.

(6) The certificate of registered letter with a form for acknowledgement of receipt or the copy of the acknowledgement of receipt of the application shall be deemed to be the evidence of the filing of application for water consent.

(7) The decision issuing the water consent shall include no explanation.

(8) If the ministry establishes that the physical development activity is not acceptable or that the plan, design or solutions applying to this activity are not prepared in compliance with project conditions or conditions for other physical development activities, they shall issue a decision refusing the water consent.

(9) A party to the procedure of issuing the water consent shall only be the investor or a legal or natural person intending to implement the physical development activity.

(10) Notwithstanding the provisions of the fifth paragraph of this article, a decision rejecting the consent or determining project conditions may be issued in the period between the expiration of the time limit referred to in the third paragraph of this article and the issuing of building permit, with a notification thereof to the administrative body responsible for the matters of construction, which shall interrupt the procedure until the finality of the decision concerning the issuing of water consent. Any damage incurred by the investor in this respect shall be borne by the ministry.

(11) Water consent may also specify other conditions applying to the implementation of the intended physical development activity, which refer to water regulation and water protection, and the cases where trial operation shall be required for the commencement of operation, as well as the method, conditions and duration of trial operation.

(12) The validity of water consent shall cease if construction or another physical development activity fails to commence within two years of the day the water consent becomes final.

(13) The ministry shall not be entitled to the payment of taxes, refunding of costs or any other payments for the preparation and issuing of project conditions and conditions for other physical development activities.

The process applies for all water types and scales.

Regarding permits for abstractions, impoundments and hydromorphological measures, there may be situations in which the applicant for the permit is also involved in water resource management.

For abstractions, such situations are very rare, but occasionally also MAE requires water rights permit. The procedure is the same as for other applicants.

For impoundments and hydromorphological alterations, MAE is also competent authority for flood protection measures. The measures relating to impoundments are the subject of spatial planning procedures. The procedure for obtaining permits is the same as for other applicants. The measures relating to significant hydromorphological alterations are the subject of spatial planning procedures. For minor alterations (intervention in
waterside land and riparian zone) state permission is necessary. The procedure for obtaining permits is the same as for other applicants.

Regarding permits for point source discharges and diffuse pollution measures, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

### 7.3 Enforcement of permits: authorities

The Inspectorate for Agriculture, Forestry, Food and the Environment of the Republic of Slovenia is the main authority in charge of the enforcement related to water-related permits. This authority was created in early 2012, when the then Ministry of the Environment and Spatial Planning was abolished and its functions split between different new ministries of the Slovenian Government. The protection of the environment, together with the environmental and water inspection, became the responsibility of the new Ministry of Agriculture and the Environment. Two previous inspectorates, for agriculture and for the environment, were united into the new Inspectorate for Agriculture, Forestry, Food and the Environment. For brevity, the term 'Environmental Inspectorate' is used in the subsequent sections, referring specifically to functions related to environment including water.

The Environmental Inspectorate is one of the so-called “administrative bodies established within a ministry” – in this case within the Ministry of Agriculture and the Environment. Namely, the organisational structure of each Slovenian ministry consist of two types of bodies: the organisational units and the administrative bodies established within the ministry. The main difference between the ministry’s organisational units and its administrative bodies is in their relative autonomy: the organisational units are internal organisational parts of the ministry without any administrative independence whereas the administrative bodies have relative decision-making autonomy: they issue administrative decision in the 1st instance. The Minister, within whose ministry the administrative body is established, is the appellate instance in those administrative procedures.

With regard to their competences, the organisational units of each ministry are mainly responsible for the policy and rule-making tasks, whereas most of the specialised tasks requiring expertise, monitoring, and the enforcement are provided by the inspectorates and other administrative bodies established within ministries.

The Environmental Inspectorate, as one of the administrative bodies established within the Ministry of Agriculture and the Environment, is thus an integral part of the Ministry, and cannot be perceived as an independent administrative organ. At the same time, it has a decision-making autonomy in the inspection procedures – the Minister may not influence the outcome of these procedures, except indirectly as an appellate authority. The Environmental Inspectorate is responsible for the inspections related to water-related permits and for administrative sanctions against the perpetrators in cases of infringements of the law, including conditions in the permits.

Another important institution responsible for the supervision of the water-related permits is the Slovenian Environmental Agency (hereinafter sometimes also called with its acronym ARSO). Like the Environmental Inspectorate, ARSO is also an administrative body, established within the Ministry of Agriculture and the Environment. With regard to water-related permits, ARSO’s main responsibility is the issuing of water permits: ARSO
issues these permits and keeps the registry of permit holders. Its enforcement duties are mostly related to control: ARSO is responsible for the monitoring of water and the activities of permit holders. The holders of water permits also have self-monitoring duties: they have to prepare annual reports on the use of their water rights and to send them to ARSO. ARSO cannot impose sanctions for the violations of water permits but must report these to the Environmental Inspectorate. However, ARSO may revoke a particular water permit if an environmental inspector has issued a decision which shows that the holder of this permit has violated its conditions or the prescribed rules for the use of water.

The Inspectorate for Agriculture, Forestry, Food and Environment is a single national administrative body within the Ministry of Agriculture and the Environment. It has 8 regional units, which cover the whole territory of Slovenia. The Slovenian Environmental Agency has the same regional organisation.

There are not separate authorities responsible for enforcement of different economic sectors. No separate institutions are responsible for enforcement of permits in the above economic sectors: as explained above, the Environmental Inspectorate is the main enforcement authority whereas the Slovenian Environmental Agency also has limited enforcement responsibilities (mainly related to control). This situation is the same in all of the following sectors: industry, agriculture, mining, hydroelectricity, municipal wastewater treatment.

The only minor difference with regard to enforcement is not due to the type of economic sector in which a water right is granted, but to the type of the water-related permit with which the particular water right is granted. Namely, in case of water rights that are conferred with the concession and not with a water permit, the Government of the Republic of Slovenia (hereinafter: the Government) also has a limited responsibility for enforcement, which derives from its status as one of the parties to the concession agreement.

There are separate authorities responsible for the enforcement of different types of water-related permits.

In general, the Environmental Inspectorate is the main enforcement authority whereas the Slovenian Environmental Agency also has limited enforcement responsibilities (mainly related to control – see above 1a). This situation is the same for all uses of water and for all types of water related permits. However, the Government also has a limited responsibility of enforcement insofar as the water right for the use of water is granted in the form of a concession.

A concession is one of the two forms of water-related permits in which a water right (which is a right for the use of water) may be granted: the other, and much more common, is a water permit. The use of one or the other instrument depends of the purpose of the use of water for which a water right is required. A water permit is necessary for the following uses of water:

- the supply of drinking water,
- bathing areas activities,
- technological purposes,
- production of heat,
- sport fishery services,
- agricultural irrigation,
- the propelling of water mills and other installations,
- the cultivation of freshwater and marine organisms (fish etc),
- the production of artificial snow for skiing areas,
- for ports and anchorages
- and for the production of electricity in hydropower plants with less than 10 MW rated power.

A concession is necessary for the following uses of water:

- the use of thermal water for thermal baths, heating and similar uses,
- the production of beverages,
- the production of electricity in hydropower plants with more than 10 MW rated power,
- and the extraction of alluvium (gravel and sediment) from the water.

Water permits are issued upon the application of the applicant by an administrative decision. These decisions are issued by the Ministry of the Agriculture and the Environment; within the Ministry, ARSO is responsible for that. The maximal duration of water permit is 30 years.

The procedure for granting the concession is more complex. In the first stage, the Government of the Republic of Slovenia adopts a decree (called a concession act), in which the content of the concession is defined, including the environmental and other conditions that have to be observed in the use of water, and the manner of the management and use of water. After that, a public tender procedure takes place, which results with the administrative decision, issued by the Government, with which the concession is granted to the best bidder. The Government and the person that acquired the concession also have to sign a concession agreement, in which the obligations and rights of both parties are defined, especially with regard to the payment of the concession fee. The maximum duration of concession is 50 years.

While the Environmental Inspectorate is responsible for the control and enforcement of the concession acts, the inspectorate is not responsible for the control or inspection with regard to violations of concession agreements, given that these are “private” contracts between the two parties (the Government and the concession holder) and not a general legal act or an administrative decision. The Government, as one of the parties of the concession agreement, is responsible for the enforcement of its contractual stipulations if the concession holder has violated the agreement. Thus, in cases when the water right is conferred in the form of concession (for example for hydropower installations), the Government itself is also responsible for the enforcement, but only insofar as the concession agreement is violated.

The Government may also revoke the concession if an Environmental Inspector has issued a decision which shows that the concession holder has infringed upon the concession act or any other legal act regulating the conditions of the concession.

It must be mentioned that although the Government is responsible for taking all decisions in a concession procedure, it does not directly prepare the necessary documents (concession acts, concession agreements) or manage the concession procedures. The concession acts, tendering procedures, tendering decisions and the concession agreements are prepared and managed on behalf of the Government by the
Ministry of Agriculture and the Environment, and within it, by its organisational units and administrative bodies, such as the ARSO and the Environmental Inspectorate. So, although all final decisions related to concessions are taken by the Government, all documents and procedures which precede these decisions are prepared and managed by the Ministry itself.

7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
The Environmental Inspectorate and the Slovenian Environmental Agency are not separate institutions but are administrative bodies established within the Ministry of Agriculture and the Environment (see 1a above). Formal coordination mechanisms between these two bodies thus do not exist.

In practice, the two bodies coordinate their work through their respective head-offices. Meetings between the two bodies are also regularly organised. Personal contacts between the officials from both bodies are also frequent and common.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are not separate entities.

Both ARSO, which issues water permits, and the Environmental Inspectorate, which enforces them, are the bodies of the same ministry: the Ministry of Agriculture and the Environment. No particular coordination mechanisms are thus needed – see previous answer.

The Government, which is responsible for granting the concessions for the use of water, does not have particular mechanisms for coordination with the Ministry of the Agriculture and the Environment and its administrative bodies ARSO and the Environmental Inspectorate. However, since the Ministry is directly responsible for the preparation and management of all procedures and documents related to concessions on behalf of the Government (see above 1b), it is not only informed about the governmental water management activities but does in fact prepare and propose them to the Government.

7.5 Enforcement actions

7.5.1 Number of inspectors
Within the Inspectorate for Agriculture, Forestry, Food and Environment, 56 inspectors are responsible for the environment (hereinafter: environmental inspectors). The areas of work of environmental inspectors are the following:

- air quality,
- waste management,
- water quality, emissions of substances into waters,
- protection of the environment and nature and ecological supervision at national borders,
- water regulation and management,
- nature protection,
- chemicals and genetically modified organisms,
- industrial pollution and risks,
- noise,
- and electromagnetic radiation.

The environmental inspectors are not specialised in single areas, such as water related issues. All 56 environmental inspectors are responsible for all of the above areas of environmental protection. Informally, though, it is ensured that in every one of the eight regional units, at least one inspector is experienced in water related issues.

There is no data is available on how much time or what share of work is devoted to the water related permits.

As stated above, all environmental inspectors are responsible for water-related permits. There is no data is available on how much time or what share of work is devoted to the water related permits for industrial facilities.

### 7.5.2 Number of inspections

The Environment Inspectorate's annual report for 2010 indicates that 456 inspections related to “water management” were carried out in that year. This number does not include inspections carried out for industrial pollution and risks: it is possible that some of the latter also addressed water permit-related issues. It should also be noted that these 456 inspections include not only cases related to water related permits, but also instances where the water was used without a permit or a concession. The number of the former or the latter is not known.

In general, among the total 5,196 of total inspections made by the Environmental Inspectorate in all areas in 2010, 62 % were planned and 38 % unplanned. No data exist about the ratio of planned/unplanned inspections in the area of water related permits.

Information was not found specifically related to the number of water-related inspections for industry.

While the report does not specify the number of inspections in the agriculture sector, it notes that the violations encountered include hydro-morphological modifications without permits, such as draining of wetlands or building flood protection banks for farmland without a permit.

Information was not found specifically related to the number of water-related inspections for other sectors. Some numbers of inspections for particular activities are mentioned in the Activities Report:

- 26 holders who have a permit for cultivation of water organisms were inspected; in half, a use of water contrary to the water permit was established;
- 32 holders of water permits for small hydropower installations and for mills were inspected
- 19 holders of water permits for artificial snowing of skiing areas were inspected.

### 7.5.3 Number of infringement actions

The Inspectorate’s annual report for 2010 indicates that 128 inspection measures were taken by the Inspectorate. In 44 cases, the administrative sanction procedures were started by the inspectors.

The Activities Report mentions that there were a number of violations in the industrial sector in 2010, mostly due to the use of water for technological use without a water permit. No exact number of infringement actions is given.
No information found on the number of water-related infringement actions for agriculture.

The Activities Report mentions infringements in the following areas.

- a use of geothermal water contrary to the conditions prescribed in concession act;
- the lack of monitoring equipment on the machines for artificial snowing;
- numerous instances of non-payment of water tax for the use of water;
- and the use of water contrary to the water permits for the cultivation of fish and other water organisms (13 infringements).

No exact number of infringements is given in the Report.

### 7.5.4 Other mechanisms (in addition to inspections)

All holders of water rights have to monitor their activities and to prepare and send an annual report about the use of water to ARSO. (The omission of this duty may result in the revocation of a water permit or a concession.)

As mentioned above, the Government may also enforce contractual obligations in a concession contract.

The framework Water Act (ZV-1) provides for another instrument for the control of water-related permits: water protection supervision. The water protection supervision is a public service which is not organised as a part of national administration, but is provided by the providers of public utility services related to water management. Water protection supervision is just a part of all the services which have to be provided by such public utility provider: its main task is to operate and manage all types of water infrastructure in the area under its control. There are eight such areas in Slovenia, each covering a whole or a part of a river basin. According to the Government’s Decree (see ref. below), the utility provider for each area is either a public enterprise or a private company to which a concession for the provision of this service in a given area is granted by the Government.

The water protection supervision is not yet established in Slovenia. Recently, the Government adopted a decree which regulates the professional training and examination of water protection supervisors, so the establishment of this service is to be expected soon. When it will be, the public utility providers of this service will employ the water protection supervisors, who will have a right of control to ensure that permits and legislation in the field of water management are being followed. Like the environmental inspectors, they will have the authority to control both private and public entities. Their primary task will be to report all violations to Environmental inspectors. The Water Act, however, also gives them limited enforcement competences: they will have a right to impose and collect penalties in a limited number of offences related to the use of water.

### 7.6 Types of administrative and criminal sanctions

#### 7.6.1 Sanctions established in national legislation

Under Slovenia’s Water Law, inspectors can set a range of sanctions, including the following: prohibiting or restricting the use of water without a permit; halting construction if in contravention of a water-related approval; prohibiting or restricting wastewater discharges if in contravention or without a permit; restoration of damage.
Inspectors can also issue a verbal decision requiring immediate action in several cases, such as imminent danger of pollution of drinking water (Art. 176).

Fines of 4,000 EUR to 125,000 EUR can be imposed on legal persons for a range of offences against the provisions of the water law, including those requiring a water permit. A lower range of fines are set for individuals (400 – 1,200 EUR).

IPPC permits: if an installation operates without a permit or if the conditions of the permit are not complied with, the following administrative sanctions/measures could be applied: fines, cessation of the infraction, corrective measures, limitation or adaptation of operation, monitoring; prohibition of operation or use of a facility or product and its placing on the market; withdrawal of the environmental permit. (Milieu IPPC study, based on Slovenia’s Environmental Protection Act).

No special provisions exist for the sanctions in the sector of agriculture and hydropower installations.

7.6.2 Sanctions normally brought for water violations
No data exist about the sanctions imposed specifically in the area of water related permits. In all areas of their work, environmental inspectors have imposed 522 fines in 2010 in the total sum of 1,339,706 EUR. The Activities Report also mentions that about 9% of all imposed fines were issued on the basis of the Water Act and thus are related to water permits and concessions (p. 20). The Report does not provide data about other inspection measures taken.

7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement
Inspection procedures are fast and effective: the required result is usually reached very soon.

7.7.2 Weaknesses of the system of inspections and enforcement
No information provided.

7.7.3 Influence of the WFD and the RBMPs on enforcement
It is not clear whether the RBMPs have strengthened enforcement. At the moment, no visible effects of RBMPs on enforcement procedures have been noticed.
8 References


Compliance Check of RBMPs - ‘Assessment of RBMPs Questionnaires (1. Governance) for the SI RBDs.

Decree on the concession to use water for electricity generation at hydro electric power plants with a maximum rated capacity of 10 MW in respect of which a final operating permit has been obtained, (Uredba o koncesiji za rabo vode za proizvodnjo električne energije v hidroelektrarnah do 10 MW nazivne moči, za katere je bilo pridobljeno pravnomočno uporabno dovoljenje), Uradni list RS, no. 23/2004 etc.

The Decree on the detailed content and method of drawing up a water management plan (Uredba o podrobnejši vsebini in načinu priprave načrta upravljanja voda), Ur. l. RS, no 26/2006, amended: Ur.l. RS, no. 5/2009.

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THE DECREE ON PROGRAMME OF PROFESSIONAL TRAINING AND EXAMINATION FOR WATER PROTECTION SUPERVISION, PUBLISHED IN UR.L. RS NO 30/2012

Descriptions of basic measures:

Descriptions of basic measures:


FORMER WEB SITE OF THE ENVIRONMENTAL INSPECTORATE
(HTTP://WWW.IOP.GOV.SI/)

INTERVIEW WITH SCG REPRESENTATIVE DR. DARJA RACMAN STANIČ

Investments in municipal and water infrastructure

The link to program of monitoring for period 2010-2015: Program monitoringa stanja voda za obdobje 2010 - 2015 (http://www.arso.gov.si/vode/poro%C4%8Dila%20in%20publikacije/).

MILIEU IPPC STUDY (PROVISIONS ON PENALTIES RELATED TO LEGISLATION ON INDUSTRIAL INSTALLATIONS, 2011, FOR DG ENV.C3)

Slovenian Environmental Agency is publishing the monitoring results on their web site:
http://www.arso.gov.si/vode/


WEB SITE OF THE SLOVENIAN MINISTRY OF AGRICULTURE AND ENVIRONMENT
(HTTP://WWW.MKO.GOV.SI/EN/)

WISE Summary Reports For SI, Chapter 1 (Governance).

WRITTEN AND ORAL COMMENTS OF THE REPRESENTATIVES OF THE INSPECTORATE FOR AGRICULTURE, FORESTRY, FOOD AND THE ENVIRONMENT OF THE REPUBLIC OF SLOVENIA

WRITTEN REPLY OF SLOVENIAN IMPEL COORDINATOR TO DG ENVIRONMENT REQUEST TO IMPEL BOARD FROM 4/6/2012, PREPARED BY ALEKSANDER BUKANOVKY
Member State Governance Fact Sheet: SLOVAKIA

Disclaimer:
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1 Administrative Arrangements: Water Authorities
Table 1 shows which authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities.

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>Ministry of Environment</td>
<td></td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>Ministry of Environment, Government of Slovakia</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Ministry of Environment</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>State water authorities, Regional offices of environment, District offices of environment, Environmental Inspectorates, municipalities</td>
<td></td>
</tr>
<tr>
<td>Enforcement</td>
<td>Regional Environment Authorities, District Environment Authorities, Slovak Environmental Inspectorate &amp; its regional inspectorates, municipalities</td>
<td></td>
</tr>
</tbody>
</table>

The main competent authority responsible for the implementation of the WFD is the Ministry of Environment of the Slovak Republic.
There have been no changes in administrative arrangements since the publication of the RBMP.

1.1 Division of responsibilities
The same authorities are responsible for implementing the requirements of the directive for all water categories (groundwater, lakes, rivers, transitional etc.)

All competences are under the Ministry of Environment of the Slovak Republic (MoE SR). The MoE is responsible for ensuring coordination on the WFD with the central state administration bodies and reporting on the implementation of tasks arising from the acts of the European Community and the European Union (such as WFD).

1.2 Authorities involved in preparing and approving the RBMPs
The Ministry of Environment of the Slovak Republic endorses the RBMP. The Government of Slovakia has approved the Water Plan of Slovakia.

The Ministry of the Environment of the Slovak Republic coordinated all works on elaboration of the RBMPs.

1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the PoMs are the same as those involved in preparing and approving the RBMPs.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The Ministry of the Environment of the Slovak Republic is responsible for requesting monitoring.

Monitoring is undertaken through a contracted service.

The Ministry of the Environment of the Slovak Republic is responsible for all three types of monitoring (surveillance, operational and investigative).

The Ministry of the Environment of the Slovak Republic is responsible for monitoring in all water categories (rivers, lakes, transitional, coastal, groundwater).

3 Integration
The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and have to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.
### 3.1 Integration with other Directives / Policies

The responsible authorities for each directive / policy are named in the table below (Table 2).

**Table 2 Summary of responsible authorities for different directives and policies**

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Waste Water Treatment Directive</td>
<td>Ministry of the Environment of the Slovak Republic</td>
</tr>
<tr>
<td>Nitrates Directive</td>
<td>Ministry of the Environment of the Slovak Republic</td>
</tr>
<tr>
<td>Bathing Waters Directive</td>
<td>Ministry of Health in cooperation with Ministry of the Environment of the Slovak Republic</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>Ministry of the Environment of the Slovak Republic</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>Ministry of the Environment of the Slovak Republic</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>Ministry of the Environment of the Slovak Republic</td>
</tr>
<tr>
<td>Climate</td>
<td>Ministry of the Environment of the Slovak Republic</td>
</tr>
</tbody>
</table>

Because there are multiple authorities involved, there is a need for coordination with the main WFD competent authority. The competent authority for WFD - Ministry of the Environment of the Slovak Republic - is involved in all the above mentioned Directive / policy. Roles of involved ministries are stipulated by relevant Acts.

### 3.2 Integration with other sectors

The relevant sectors / drivers and the responsible authorities are named below (Table 3).

**Table 3: Summary of responsible authorities for different drivers & sectors**

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Ministry of Agriculture and Rural Development - RBMP development and implementation – national level</td>
</tr>
<tr>
<td>Water</td>
<td><strong>Drinking Water</strong>&lt;br&gt;Water Companies, Municipalities and others&lt;br&gt;Wastewater&lt;br&gt;Water Companies, Municipalities - RBMP development and implementation</td>
</tr>
<tr>
<td>Energy</td>
<td>Ministry of Economy – implementation - national level</td>
</tr>
</tbody>
</table>
### Driver / Sector | Responsible Authority
--- | ---
Transport | Ministry of Transport, Construction and Regional Development - national level
Industry | IPPC
 | Ministry of Economy, concrete subjects – implementation - national and local level
 | Non IPPC
 | Ministry of Economy, concrete subjects – implementation -national and local level
Mining | Ministry of Economy, concrete subjects - national and local level

Because there are different authorities, there is a need for coordination with the main WFD competent authority.

1. Developers of plan communicate with tangible stakeholders during draft plan development – according to needs
2. During draft plan there is a commented period (art.14 WFD)
3. Communication at approval of plan by the government – the way is stipulated by issued Guidance on submitting materials to the government (http://www.vlada.gov.sk/smernica-na-pripravu-a-predkladanie-materialov-na-rokovanie-vlady-sr/). Submitted documents are available on portal of legal regulations - all stakeholders are informed about it by a letter and E-mails. Period of commenting lasts 10 days. Comments are incorporated into the document – in case of fundamental comment which is not accepted – discrepancies are solved in separate discussions.
4. Communication at approval of Programme of Measures – the way is sets by legislative rules of the government. Submitted documents are available on portal of legal regulations - all stakeholders are informed about it by a letter and E-mails. Period of commenting lasts 15 working days. Comments are incorporated into the document – in case of fundamental comment which is not accepted – discrepancies are solved in separate discussions.

In addition - The Ministry of Environment of the Slovak Republic has set up the Intersectoral Coordination Group for WFD Implementation (Slovak title: Medzirezortná koordinačná skupina pre implementáciu RSV), which came into force by October 1st, 2009.

### Participation
The roles of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and have to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation
Provisions on public participation are provided in the Slovak legislation. Formal mechanisms for consultation and involvement of stakeholders are stipulated by Act on EIA/SEA and IPPC. According to the Act on waters (Art. 13 Para. 4 and Para. 5), for the purposes of submitting written comments, active participation and consultations the
Ministry of the Environment of the Slovak Republic has to make available, within the 6 months’ time period, to the public, users of water, self-governing regional authorities, municipalities and state authorities concerned:

a. Timetable and work programme for the preparation of the RBMP proposal,

b. Identified significant water management issues,

c. Draft RBMP.

Based on the request, the Ministry of Environment will make available to the aforementioned stakeholders materials and information used while developing the RBMP proposal (background documents). The same relates to the updates/reviews of the RBMP.

Moreover, according to the amendment to the Act on waters which was effective from 1 December 2011, the draft RBMP, the draft Slovak Water Plan and its updates are subject to an environmental impact assessment (SEA) according to the Act no. 24/2006 Coll. on environmental impact assessments as amended.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD

No new authorities have been created as a result of the WFD. In addition, no significant changes have been made to existing authorities as a result of the WFD.

5.2 Organisation structure

The following diagram illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan

The obligation to take into account the Slovak Water Plan is regulated in the following legal regulation:

a. Act No. 364/2004 Coll. on waters and on changes and amendments of related laws (Water Act), in its last wording

b. Act 409/2011 Coll. on certain measures in the field of environmental load (§ 8 Para. 3) – A proposal of the plan to eliminate environmental load shall be elaborated in compliance with the Slovak Water Plan.

According to the Slovak legislation, the two River Basin Management Plans of Slovakia are the RBMP of Danube and the RBMP of Vistula. On the basis of these two RBMP, the Ministry has prepared a national-level Water Plan. The Programme of Measures is integrated as part of the RBMPs and the Water Plan of Slovakia.

The draft RBMPs are elaborated by organisations subordinated to the Ministry of Environment of the Slovak Republic (MoE SR): Water Research Institute, Slovak Hydrometeorological Institute, State Geological Institute DS, Slovak Water Management Company - a state owned company and others.


According to Slovak legislation the RBMPs are not official legal acts (i.e. they cannot be classified under any category of legal instruments according to the law). Nevertheless the Slovak Water Plan, once endorsed by the government, shall be published in the National Collection of Laws as the Governmental Regulation. However, the quality of Governmental Regulation applies only to the Programme of Measures. Only this part of the Water Plan is published and mandatory.

6.1.1 Legal effect

As already mentioned above, the RBMP of the Danube River and the Vistula River are not legally binding documents as they are not published in the Collection of laws of Slovakia.

Nevertheless the mandatory part of the Slovak Water Plan as a document of water planning is published as a Governmental regulation Nr. 279/2011. The mandatory part of the Slovak Water Plan is the Programme of measures.

Governmental Regulations are binding legal documents, which are published in the Collection of laws. The Government of the Slovak Republic issues governmental Regulations to implement the laws and EU legislation, and they must be in compliance with the Constitution, constitutional laws, laws and international treaties.

The Slovak Water Plan contains the Programme of Measures which is specifically endorsed by the Government and has a binding effect. It is also published in the collection of laws as a generally binding Governmental Regulation. The environmental
objectives are also included in the published part of the Slovak Water Plan in accordance with Act No. 364/2004 Coll. on waters and on changes and amendments of related laws (Water Act) in its last wording and its executive decisions and are therefore considered as a generally binding legal regulation not only for competent authorities but also for legal entities and natural persons.

The remaining of the Slovak Water Plan does not have a binding effect towards any sectors or stakeholders except the legal obligation to take into account the Slovak Water Plan provided for in specific provisions as described above.

As mentioned above, the RBMPs of the river Danube and of river Vistula do not have a generally binding effect as such. The only exception is established by the Act on waters (§ 13 Para. 1), according to which the RBMP is must be complied with during regional planning or may serve as a regional plan. In Slovakia Landscape planning is incorporated into territorial plans (Conception of territorial development of Slovakia, Territorial plans of regions and settlements). According to § 28(f) of Act on Waters a position statement of State water management Authority to all these planning documents is needed.

6.1.2 Legal status in relation to individual decisions

According to the Act on Waters (§ 65) the State authorities are obliged to relate, inter alia, to the RBMP and the Slovak Water Plan while issuing permits for the special use of waters, granting consents, giving statements and other decisions.

There is no explicit provision in the Slovak national legislation, which would require competent body to review the existing permit/concession in line with environmental objectives set in the RBMP or the Slovak Water Plan. The national legislation only entitles the competent authority, on its own initiative, to change or cancel existing permit for consent to special use of waters, inter alia, if required to fulfil RBMP and Programme of measures.

Permits for waste water discharge into surface water are according to § 21(Para.4) issued maximum for period of 10 years. In case waste water contains hazardous substances – maximum of 4 years. Waste water discharge into ground water is in Slovakia prohibited.

Existing permits can be reviewed or cancelled (without a setting period for its amendment) according to:

- § 24 (Para.1d) if it is needed to reach consent with river basin management plan, program of measures and measures proposed to reach water quality of surface water allocated for specific use (e.g. drinking water, ..)

- Governmental decision on Programme of Measures, which stipulates duty to re-evaluate existing permits due to obtain consent with environmental objectives.

The following subsections describe how the RBMP is included in the permitting decision process for: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

Hydropower installations

According to § 21 of the Act on Waters, special use of waters in case of the use of hydroenergetic potential of surface waters is subject to a permit. The competent authority is
the District environmental authority and in case the hydro-energy power installed exceeds 100KW, the Regional environmental authority.

Regarding the legal relationship of the RBMP and the Slovak Water Plan with the permit for special use of waters for hydropower installations, the competent body is only bound by the general rule provided above (i.e. § 65 of Act on waters). That means that the body granting the permit for special use of waters must take into account the RBMP and the Slovak Water Plan.

**Abstraction for agriculture**

In case of water abstraction for agriculture, the same regime applies as in hydropower installation, i.e. there is no direct requirement to comply with the RBMP or the Slovak Water Plan except the provision of § 65 of the Act on waters.

Waters designated for irrigation may not negatively influence human health and fauna, soil, crops and state of surface waters and ground waters.

Abstraction of waters is subject to permit granted by the District environmental authority.

Regarding the legal relationship of the RBMP and the Slovak Water Plan with the permit for water abstraction for agriculture, the competent body is only bound by the general rule provided above (i.e. § 65 of Act on waters). This means that the District environmental authority must take into account the RBMP and Slovak Water Plan.

**IPPC and other industrial installations**

Again the same legal situation applies to IPPC and other industrial installations as above. The discharge of waste waters to surface waters (to the ground waters it is allowed only in cases if negative impact on groundwater quality will be avoided – (§37 of Water Act) is subject to permit granted by the State water management authorities and Slovak Inspection (IPPC). The State water management authorities and Slovak Inspection are, according to § 65 of the Act on waters, required to take into account the RBMP and the Slovak Water Plan while granting consent.

**6.2 Relationship with other sectoral policy plans**

According to Act on waters (§ 15 Para. 8) the bodies of state administration are obliged to take into account Slovak Water Plan while elaborating basic regional development documents and land use documents.

According to § 28(f) of Act on Waters a statement of the State water management Authority is required for approving land use planning document (see § from 20 to 23 of Act Nr.50/1976 Coll about territorial planning and building code).

The Act no. 539/2008 Coll. on support of regional development does not refer to the RBMP or to the Slovak water Plan. The Act on Waters § 28(f) also applies in this case.

With regard to flood risk management plans, the Act no. 7/2010 on flood protection stipulates that river basin risk management plans must be coordinated with RBMPs. River basin authorities (i.e. the Slovak Water Management Company and the Water Research Institute) are the authorities responsible to develop flood risk maps. River basin risk management plan shall be elaborated by the Ministry of Environment.
According to § 9 (4) of the Act on flood protection the river basin risk management plans shall be elaborated, reviewed and updated in coordination with review and update of the river basin management plans, i.e. every six years.

7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are: State water authorities - MoE SR, Regional offices of environment, District offices of environment, environmental Inspectorates and municipalities.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

7.2 Permit applications

The process for application for a permit is described below.

1. Applicants submit its request to the Regulatory Authority (RA). Determination process begins on the day of request delivery.

2. RA checks content of the request, in case of missing information – RA request it from the applicant (in harmony with Act Nr.71/1967 Coll.). In such a case the determination process is interrupted by a issued decision for an appropriate time, containing also notice – if the missing information is not provided within the given period – the determination process will be closed.

3. After completion of the application, RA informs participants about a beginning of the determination process. It also asks all relevant state bodies for their opinion – statement and according to the type of activity – it also may claim a local survey, which can be joined with a verbal proceedings.

4. Lengths of the determination process depends on complexity of the activity – for simple activity - off-hand, others 60 days, in case of more complex issues – maximum 3 months.

5. In case of an activity of public interest, there exists a duty to place the issue - beginning, process and completion of determination process on notice board of RA and its web (§ 3(5) of Act Nr.71/1967 Coll.).

6. In case of complicated cases an argumentation process can be realized due to finding out a real status.

7. All permits have to contain all relevant and formal points. To the relevant issues belong – declaration, justification and instruction.

8. After closing of determination process of an activity (e.g. permit for construction, using of water) each permit contain also notice about appealing possibility against the issued permit.
The process applies for all water types and scales.

Regarding permits for abstractions, impoundments, point source discharges, diffuse pollution measures and hydromorphological alterations, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

### 7.3 Enforcement of permits: authorities

The main administrative enforcement bodies are the eight Regional Environment Authorities, the District Environment Authorities and the Slovak Environmental Inspectorate and its regional inspectorates.

The Regional and the District Environment Authorities are under the supervision of the Ministry of Environment of the Slovak Republic. They can issue permits, carry out inspections and impose measures related to water-related permits.

The Slovak Environmental Inspectorate is also under the supervision of the Ministry of Environment of the Slovak Republic. The Inspectorate can issue IPPC permits, carry out inspections and impose administrative measures. The Inspectorate supports the work of Slovakia’s regional inspectorates.

In addition, municipalities can have an enforcement role.

As noted above, regional and district environment authorities and regional inspectorates, as well as municipalities, can carry out enforcement tasks.

These enforcement authorities cover different economic sectors and different types of permits: there are no differences along this basis.

### 7.4 Coordination on enforcement

#### 7.4.1 Among enforcement authorities

The Ministry of Environment of the Slovak Republic provides overall supervision to the environmental enforcement authorities. According to Water Act No.364/2004 (§73(19)) – State water management authorities are obliged to provide their position on all IPPC permit requests.

#### 7.4.2 Between enforcement and water management authorities

The enforcement authorities and water management authorities are separate entities.

The Ministry of Environment issues methodological guidelines in order to ensure a common understanding of the legislative acts: guidelines are addressed to officials from both water management authorities (Regional and District Environment Authorities) and the Slovak Environmental Inspectorate. The guidelines are also presented via dedicated seminars and internal directives.

Coordination at the level of a single District Environment Authorities is ensured automatically, since in practice only one department deals with all enforcement issues. In cases of shared water bodies, the District Environment Authorities involved coordinate their activities, following the methodological guidelines cited above.

The Slovak Environmental Inspectorate is an independent organisation whose director is nominated directly by the Minister of Environment. Its IPPC department is a first level
body, and its Central office acts as an appeal body for decisions of the first level bodies; the Ministry of Environment acts as the final, extraordinary appeal body.

Additional coordination is related to the decision-support databases. These databases are under the supervision of the Slovak Hydrometeorological Institute and Water Research Institute. District Environment Authorities communicate with these two organisations directly.

### 7.5 Enforcement actions

#### 7.5.1 Number of inspectors
No specification of number of inspectors who deal with permits only.

#### 7.5.2 Number of inspections
The Slovak Environmental Inspectorate carried out 1193 inspections related to water in 2010, of which 14 inspections focused on industry and 49 on Seveso issues.

The Slovak Environmental Inspectorate carried out 253 inspections related to IPPC permits in 2010. No information on the share that focused on water issues. In addition, as noted above, 14 water-related inspections focused on industry, plus 49 that covered Seveso issues.

#### 7.5.3 Number of infringement actions
In 2010, 249 inspections carried out by the Slovak Inspectorate on water-related permits identified infringements of legislation: this represented 21% of the total number of inspections on water-related permits.

For IPPC permits: the Slovak Inspectorate found 65 infringements. This represented 21% of the total number of IPPC inspections.

#### 7.5.4 Other mechanisms (in addition to inspections)
1. State water management Authorities (regional, district) which issue permits.

2. Auditors (accredited in sense of EC Regulation No,1221/2009) through audits performed in facilities asking for certificate of Environmental management system (EMAS). The regulation Nr.1221/2009 is in Slovakia carry out in harmony with Act Nr.491/2005 Coll.

### 7.6 Types of administrative and criminal sanctions

#### 7.6.1 Sanctions established in national legislation
Administrative, quasi-criminal and criminal sanctions can be applied for violations.

Fines are often imposed as sanctions. These are defined in Act No. 364/2004 Coll, which provides that fines can be imposed for the following violations:

- Extraction of surface water, groundwater or mine water without or in contrast to a permit from the state water management authority;
- Discharge of waste waters or special waters into surface waters or groundwater and into municipal collecting system without or in contrast to a permit from the state water management authority;
- Use of surface waters or groundwater without or in contrast to a permit from the state water management authority;
• Discharge of waters into surface waters or groundwater without or in contrast to a permit from the state water management authority;
• Activities that may affect water conditions without or in contrast to a permit from the state water management authority;
• Breach of obligations for handling of dangerous substances;
• Pollution of surface waters or groundwater by unpermitted handling of dangerous substances;
• Lack of a professional security survey and supervision over operation of a water facility which is found in a condition that may present a hazard to human safety or security of property;
• Operation of a water construction without having the rules of operations approved by a state water management authority or in contrast to such rules;
• Disabling access for control bodies to the site and facilities to make necessary observations or fails to provide necessary data and complete information upon a request;
• Failing to meet other obligations laid down in the “Water Act” or obligations imposed in compliance with this Act by the state water management authority.

For breach of duties related to the construction code, state authorities can impose fines under separate regulations.

When imposing a fine according to the Water Act, particular account shall be taken of harmful consequences resulting from breach of obligation, circumstances under which the breach of obligations occurred and how the entrepreneur or other legal entity got involved in removal or mitigation of harmful consequences.

For IPPC permits, the primary administrative sanction for breaches of IPPC legislation is a fine. Quasi-criminal sanctions (the equivalent term used in Slovakia for quasi criminal is ‘contravention’) may include imprisonment and/or a fine. Slovak law also provides for damages to restore the environment to its prior state. (Law No. 245/2003 (as amended); Ministerial Decree 356/2010; Air Act 137/2010; Criminal Code No. 300/2005 (as amended); Law No. 372/1990 on petty offences and by other administrative laws; Landscape Protection Act No. 543/2002.)

**7.6.2 Sanctions normally brought for water violations**

In 2010, Slovak Environmental Inspectorate fined 266 cases of infringement on water-related permits in a total value of more than 205,000 EUR. In case of IPPC permits, the number of penalties was 75, for a value of over 130,000 EUR.

In 2011, there were 222 cases of infringement on water related permits in an amount of 177,000 EUR and 62 penalties related to the IPPC permits in a value of 118,000 EUR.

The fine is doubled in cases of repeated breaching of the permit conditions. The enforcement of decision via nominated executor, ceasing of activity or forced management by the nominated operator are among less frequented means of sanctions.

**7.7 Strengths, weaknesses and changes to the enforcement system**

**7.7.1 Strengths of the system of inspections and enforcement**

Prevention against law violation office.
The system is fully functional and its practical implementation has a significant preventive effect on the potential violation of permit conditions by facilities and other entities.

Accidental pollution from point sources is currently considered to be “under control”: this is documented by the successful implementation of the accident prevention early-warning system, including operational links to the fire rescue corps, police and army.

### 7.7.2 Weaknesses of the system of inspections and enforcement

Increase in general awareness of water significance for society and its protection – on each level of society:

- Improvement of the information management system (as a part of e-Government) allowing for fast operational use of existing background information.
- Generally improved law enforcement system.
- Intensification of educational activities for the general public (e.g. building on the existing “Day of open laboratories”, “Danube day”, “Drink water from the tap” campaign, etc.) with the goal of increasing public awareness as regards significance of water in the society and its protection.

It is expected that the general awareness in terms of environmental protection will be increasing with the improved economic welfare of the population.

### 7.7.3 Influence of the WFD and the RBMPs on enforcement

It is thought that the RBMPs have strengthened enforcement.

In decision process the basic rule - water and nature protection is predominant against water using. For water protection the measures to reach environmental objectives are promoted.

The main improvement could be seen at the targeted coordination of work of several District Environment Offices at the level of shared water bodies.

Among the most positive aspects was the introduction of (i) common environmental quality standards at both the national and international scale (e.g. within the Danube River Basin District), (ii) common approach to the assessment of the status of water bodies and (iii) the principle of protecting and maintaining of all functions of a water body.

The WFD in general and the RBMP in particular, provide background information for the environmental authorities to take decisions on implementing programme of measures.
8 References

Essential information on river basin management plans is available at: http://www.minzp.sk/sekcie/temy-oblasti/voda/koncepcne-aplanovacie-dokumenty/vodny-plan-sr/ which is an official web page of the Ministry of Environment of the Slovak Republic. The main source of information on the legal nature of RBMP is the Act on waters (no. 364/2004 Coll.) which is available together with other legislation at: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_mini_zak_vyber_hl1.asp?clear=N.

Act No. 364/2004 Coll. on waters and on changes and amendments of related laws (Water Act), in its last wording.

Act Nr. 24/2006 Coll. on environmental impact assessments as amended.

Act No. 245/2003 on IPPC


Interview with water management authorities at the Ministry of Environment (Mr. Ceresnak – General Director of the Water Sector, Ms. Bujnova – Director of the Water Policies Section, Ms. Zigova and Ms. Strelkova – experts from the Water Management Section) and Water Research Institute (Ms. Kunikova - expert).

http://www.minzp.sk/o-nas/mzp-sr/organizacny-poriadok/


Register of auditors and subjects receiving ENMAS certificate is on web page: http://www.sazp.sk/public/index/go.php?id=1556


Study on IPPC enforcement (Milieu Ltd, 2011, for DG Environment).


http://www.vlada.gov.sk/dokumenty/


Water Plan of Slovakia - www.enviro.gov.sk

WISE Summary Reports for SK, Chapter 1 (Governance).

1 Administrative Arrangements

1.1 Water Authorities

The United Kingdom (UK) follows a national approach to implement the Water Framework Directive (WFD), although there are differences between England, Wales, Scotland and Northern Ireland.

Thus for each administration the named competent authority is the Environmental Protection Agency (EPA) within the devolved administrative boundaries. In England and Wales the competent authorities are the respective Environment Agencies. Similar to England and Wales, is the Scottish Environmental Protection Agency the main competent authority in Scotland. In Northern Ireland, the competent authority is the Department of the Environment/Environment Agency for Northern Ireland (DOENI).

The River Basin Management Plans (RBMP) devised by these authorities are the responsibility of the relevant administrative Minister to approve. Hence for England plans would be approved by the Secretary of State, under Department for Environment, Food and Rural Affairs (Defra). In Scotland, Wales, and Northern Ireland is the relevant Minister responsible for approving the work of the statutory competent authority.

The authorities are involved in the main aspects of WFD implementation, including the competent authorities/ main coordinating authorities and the supporting authorities (table 1).

Table 1: Summary of authorities responsible for elements related to implementation of the WFD

<table>
<thead>
<tr>
<th>Area of WFD-related responsibility</th>
<th>Competent Authority / main coordinating authorities</th>
<th>Supporting authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>WFD implementation (overall)</td>
<td>England &amp; Wales: Department for Environment, Food and Rural Affairs (Defra), Welsh Minister for Environment &amp; Environment Agency (EA), Scotland:</td>
<td>RBD liaison panels, Technical Advisory Group for the WFD, Northern Ireland: Loughs Agency</td>
</tr>
<tr>
<td>Area of WFD-related responsibility</td>
<td>Competent Authority / main coordinating authorities</td>
<td>Supporting authorities</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>--------------------------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>RBMP and PoM preparation</td>
<td>England &amp; Wales: Environment Agency, SEPA, NIEA</td>
<td>RBD liaison panels</td>
</tr>
<tr>
<td></td>
<td>Scotland: SEPA, Scottish Government</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Northern Ireland: DOENI &amp; NIEA, Stormont</td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td>Environment Agency, SEPA, NIEA</td>
<td></td>
</tr>
<tr>
<td>Permitting</td>
<td>Environment Agency, SEPA, NIEA</td>
<td></td>
</tr>
</tbody>
</table>

There have been no changes in administrative arrangements since the publication of the RBMP.

1.1.1 Division of responsibilities
The same authorities are responsible for implementing the requirements of Directives for all water categories (groundwater, lakes, rivers, transitional etc.). Locally, these bodies along with other relevant public bodies are working in liaison panels for each RBD. In England and Wales these consist of water companies, ports, business and industry, the Consumer Council for Water, agriculture as well as other industry sectors specific to the district environmental regulators and NGOs – or civil society organisations. These bodies or their equivalents are also effective in Scotland and Northern Ireland.
The competent authorities are devolved to the respective environmental regulators for each administration. Where specialist bodies are involved, such as the Loughs Agency in Northern Ireland, the competent authority is responsible for maintaining liaison and effective communication with these bodies.

The devolved administrations have a technical advisory group (the UK WFD TAG).

1.1.2 Authorities involved in preparing and approving the RBMPs
Environment Agency in England and Wales - the plans are approved by the Secretary of State for the Environment and the Welsh Minister for Wales. SEPA prepare plans in Scotland which are approved by the Scottish Government. The DOENI/NIEA prepare plans in N Ireland and are approved by the legislature at Stormont in Northern Ireland.

Coordination mechanisms to deal with multiple authorities:

The river basin district liaison panels have been central to this process. The panels include representatives of businesses, planning authorities, environmental organisations, consumers, navigation, fishing and recreation bodies and central, regional and local government, all with key roles to play in implementing the plans. They have also helped work with local stakeholders to identify the actions needed to address the main pressures on the water environment (abridged from www.environment-agency.gov.uk).

1.1.3 Authorities responsible for Programmes of Measures
The authorities involved in preparing and approving the Programmes of Measure (PoMs) are the same as those involved in preparing and approving the RBMPs.

Responsibility for preparing PoMs rests with competent authorities in each UK country and formal arrangements require coordination to take place on cross border issues whereby all parties will be on the liaison panel.

2 Monitoring
Monitoring systems can be important tools for enforcement and they help in understanding whether the WFD objectives are being achieved.

2.1 Authorities responsible for Monitoring
The authorities that request monitoring are the Environment Agency, SEPA and NIEA.

Monitoring is undertaken through the authority’s own facilities and staff.

The Environment Agency, SEPA and NIEA are responsible for all three types of monitoring (surveillance, operational and investigative).

3 Integration
The WFD highlights the role of economic sectors, such as agriculture and energy, in shaping pressures on Europe’s waters. The mechanisms to address these sectors and integrate water objectives are thus a key issue for governance.

Furthermore, directives such as Urban Waste Water Treatment Directive or the Nitrates Directive have a direct impact on Water and has to be considered, therefore this section outlines different directives, policies and sectors and the responsible authority.
3.1 Integration with other Directives / Policies
The responsible authorities for each directive / policy are named below (table 2).

Table 2: Summary of responsible authorities for different directives & policies

<table>
<thead>
<tr>
<th>Directive / Policy</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nitrates Directive</td>
<td>EA, SEPA, DOENI/NIEA</td>
</tr>
<tr>
<td>Bathing Water Directive</td>
<td>EA, SEPA, DOENI/NIEA</td>
</tr>
<tr>
<td>Drinking Water Directive</td>
<td>EA, SEPA, DOENI/NIEA</td>
</tr>
<tr>
<td>Floods Directive</td>
<td>EA, SEPA, DOENI/NIEA</td>
</tr>
<tr>
<td>Habitats Directive</td>
<td>EA/Natural England (NE)/Countryside Council for Wales (CCW), Scottish Natural Heritage (SNH), DOENI/NIEA</td>
</tr>
<tr>
<td>Climate</td>
<td>EA/Department for Energy and Climate Change (DECC), SEPA, DOENI/NIEA</td>
</tr>
</tbody>
</table>

Because there are different authorities, there is a need for coordination with the main WFD competent authority. There are various partnering bodies and liaison panels but for the WFD this is largely dealt with under the RBMP planning process.

3.2 Integration with other sectors
The relevant sectors / drivers and the responsible authorities are named below (table 3).

Table 3: Summary of responsible authorities for different drivers & sectors

<table>
<thead>
<tr>
<th>Driver / Sector</th>
<th>Responsible Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>EA/Defra/Welsh Government (WG) Scottish Government/SEPA DOENI/NIEA</td>
</tr>
</tbody>
</table>
Because there are different authorities, there is a need for coordination with the main WFD competent authority.

Essentially the competent authority will liaise with these bodies on a case by case basis within each RBMP, formally through the liaison panel but also in specific licensing cases.

### 4 Participation

The role of public information and participation are highlighted in the Aarhus Treaty and related EU legislation and has to be considered in the WFD process.

#### 4.1 Formal mechanisms of consultation

The EA is required to meet detailed publication and consultation obligations that apply in relation to RBMPs. The Agency must also take further steps to encourage involvement in plan preparation, and may be directed to do so. Regulation 12(2)(c) requires the EA to consult a list of specific persons as part of this process, including the appropriate authority, nature conservation bodies and every local authority and local planning authority, any part of whose area is within the relevant RBD.

In addition, at the earlier stage of preparing proposals for the environmental objectives and PoM, the EA must take such steps as it thinks fit to provide opportunities for the general public and those persons likely to be interested in or affected by its proposals to participate in discussion and the exchange of information or views in relation to the
preparation of those proposals. In accordance with Regulation 10(2)(b) therefore, the EA is required to publicise its draft proposals to those persons and consult them in respect of the proposals.

In addition to the EA’s statutory requirements, DEFRA states in its Guidance document on River Basin Planning that the EA “will need to work in partnership with the range of public, private and voluntary sector organisations that will be affected by the RBMPs.” Furthermore, DEFRA states that the EA “should not just gather views on the draft RBMP and its implications, but also engage with stakeholders in the resolution of any conflicting views and issues raised and how to take account of them in the RBMP which is submitted to the Secretary of State and/or the Assembly for approval.”

As part of this consultation process, the EA liaises with the National Liaison Panel (at national level) and River Basin Management Liaison Panels (at the level of RBD). The National Liaison Panel for England advises the Environment Agency on the general implementation of the Water Framework Directive. It consists of around 20 key co-deliverers, i.e. organisations responsible for carrying out actions, and others who can both represent the public and help drive changes in behaviour. The panel works on a representational system. This means the panel members are expected to represent the views of the whole of their sector and act as a two-way channel between the panel and their sector. Industry representatives on the panel include the Confederation of British Industry (CBI), Water UK and the National Farmers Union (NFU). The River Basin Liaison Panels set the strategic overview for river basin planning and agree the measures for improvement in each RBD. They draw members from a wide range of groups including statutory and civil society conservation organisations, landowners and farmers, regional water companies and local authorities. For example, the South East Liaison panel (representing the South East RBD) includes members from Southern Water Services Limited and National Farmers Union.

In Scotland, SEPA are also required to meet detailed publication and consultation requirements set out in section 11 of the WEWS, which include publicising that representations may be made on the draft RBMP. Section 11(6) requires SEPA to consult a list of specific persons as part of this process, including Scottish Natural Heritage, Scottish Water and every local authority, any part of whose area is within the RBD. SEPA must also take steps to encourage those persons to participate in the preparation of the plan. In addition, SEPA must have regard to any advice received from the Advisory Group for each RBD.

In Northern Ireland, the Department is required to meet detailed publication and consultation requirements set out in Regulations 13 and 14 of the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 (the 2003 Regulations), which include publicising that representations may be made on the draft RBMP. Section 13(6) requires the Department to consult a list of persons and bodies as part of this process, including the Northern Ireland Water Council, the Council for Nature Conservation and the Countryside and every district council, any part of whose area is

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195 A list of members for England can be viewed at [http://www.environmentagency.gov.uk/research/planning/40213.aspx](http://www.environmentagency.gov.uk/research/planning/40213.aspx)
197 A list of members for England can be viewed at [http://www.environment-agency.gov.uk/research/planning/33112.aspx](http://www.environment-agency.gov.uk/research/planning/33112.aspx)
within the RBD or part of an international RBD falling within Northern Ireland. The Department must also take steps to encourage those persons to participate in the preparation of the plan.

5 Impact of the WFD

5.1 Changes to water governance resulting from the WFD
No new authorities have been created as a result of the WFD. However, significant changes have been made to existing authorities as a result of the WFD. Notably in Northern Ireland the formation of the Abstraction and Impoundments licensing team and the establishment of a public body dealing with water in Northern Ireland.

The benefits linked to these changes include clearer identification of abstractions and thereby improved demand management, although there was major criticism of this body for failing to invest prior to the water supply shortages in December 2010. This was an extreme event and has led to changes in procedures to deal with winter water shortages.

5.2 Organisation structure
The following diagram (figure 1) illustrates the linkages between the Competent Authority and authorities responsible for different functions, sectors, policies etc.

Figure 1: organisation structure
6 Analysis of the nature of RBMPs

6.1 Characterisation of the legal status of the River Basin Management Plan (RBMP)

As specified above, Regulation 3 of the 2003 Regulations places a general duty on the competent authorities and the EA to exercise their “relevant functions”, which are specified in Schedule 2 of the Regulations, so as to secure compliance with the requirements of the Directive, and (in relation to the appropriate authorities), to secure that the requirements of the Directive for the achievement of its environmental objectives, and in particular programme of measures, are coordinated for the whole of the RBD.

Furthermore, Regulation 17 of the 2003 Regulations requires the competent authorities, the EA and all public bodies to “have regard” to the RBMP in exercising their functions “so far as affecting a river basin district”. Public bodies are any person (other than Ministers of the Crown or Welsh Assembly) holding office under the Crown, created by public general Act of Parliament or remuneration in respect of which is paid out of money provided by Parliament, in other words, any civil servant or institution created and financed by the State or other body exercising statutory functions.

As stated above, sections 2 and 16 of the WEWS place equivalent duties on the Scottish Ministers, SEPA and responsible authorities, in relation to the Scotland and Solway Tweed RBMPs.

In Northern Ireland, Regulations 3 and 17 of the 2003 Regulations place equivalent duties on the Department, in relation to the RBDs lying wholly or partly within Northern Ireland.

In England and Wales, the “appropriate authority responsible for formal adoption of the plans is the Secretary of State (where a RBD is wholly in England); the Welsh Assembly (where the RBD is wholly in Wales); and the Secretary of State and Welsh Assembly acting jointly (where the RBD is partly in England and partly in Wales). In practice, it is the Environment Agency (EA) which plays the main role in actual implementation.

Pursuant to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003, the EA is responsible for preparing and submitting to the appropriate authority River Basin Management Plans (RBMPs) for each river basin district. Such plans must include the information specified in the relevant provisions of the Directive. RBMP’s are then approved by the appropriate authority, which must ensure that plans are produced by 22nd December 2009 and reviewed and updated thereafter. Directions may be given to ensure that this happens. RBMPs must be reviewed every 6 years after their adoption or review, an obligation which the Secretary of State or Assembly, as appropriate, must ensure is discharged in accordance with the Directive’s requirements.198

In Scotland, the “appropriate authority” responsible for the formal adoption of the plan for the Scottish RBD is the Scottish Ministers. In accordance with s.10 of the Water Environment and Water Services (Scotland) Act 2003 (WEWS), the Scottish Ministers

198 River Basin Planning Guidance, DEFRA: 
may direct the Scottish Environment Protection Agency (SEPA) to prepare and submit to them a RBMP. Under the Scotland River Basin District (Preparation, Submission and Revision of River Basin Management Plan) Directions 2007, SEPA were required to prepare and submit such a plan to the Scottish Ministers. Following its approval by the Scottish Ministers, SEPA adopted and published the Scotland RBMP on 22 September 2009. SEPA are also tasked with reviewing and updating and thereafter preparing and submitting a revised plan to the Scottish Ministers by 22 September 2015. With regard to the Solway Tweed RBD, which lies partly in Scotland and partly in England, the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 give authority to SEPA and the EA to co-ordinate river basin planning in the Solway Tweed RBD. The Solway Tweed RBMP was therefore adopted by SEPA and the EA on 22 December 2009, following its approval by the Scottish Ministers and the Secretary of State.

In Northern Ireland, the “appropriate authority” responsible for the formal adoption of the RBMPs is the Department of the Environment (the Department), with technical input from the Northern Irish Environment Agency (NIEA). In Northern Ireland there is one RBD which lies wholly in Northern Ireland, and three international RBDs, North Western, Neagh Bann and Shannon, for which the Department coordinates its actions on river basin planning with the responsible authorities in the Republic of Ireland.

6.1.1 Legal effect
RBMPs are high level strategic planning documents. They are not in themselves legal instruments but they are statutory documents. Once the plan has been approved, the Environment Agency must exercise its permitting and licensing functions so as to secure the objectives contained in the plans in order to comply with Regulation 3 of the 2003 Regulations which places a general duty on the appropriate authority and the EA to exercise their “relevant functions” so as to secure compliance with the requirements of the Directive, and (in relation to the appropriate authorities), to secure that the requirements of the Directive for the achievement of its environmental objectives, and in particular programme of measures, are coordinated for the whole of the RBD.

Furthermore, Regulation 17 of the 2003 Regulations requires the competent authorities, the EA and all public bodies to “have regard” to the RBMP in exercising their functions.

Equivalent provisions exist in Scotland. Section 2 of the WEWS places a general duty on the Scottish Ministers, SEPA and the responsible authorities to exercise their functions so as to secure compliance with the requirements of the Directive. Section 16 of the WEWS requires the Scottish Ministers and every public body and office-holder to have regard to the RBMP in exercising their functions. In Northern Ireland, Regulation 3 of the 2003 Regulations place a general duty on the Department, the Department of Agriculture and Rural Development, the Department of Culture, Arts and Leisure and the Department for Regional Development to exercise their functions in a manner which secures compliance with the requirements of the Directive. Regulation 17 of the 2003 Regulations requires the Department and each public body to have regard to the RBMP in exercising their functions so far as these affect the RBD or part of an international RBD falling within Northern Ireland.

As specified above, the legal effect of the RBMP operates by virtue of Regulations 3 and 17 of the Regulations.
Regulation 3 places a general legal duty on the competent authorities and the EA, when carrying out their duties, to secure compliance with the requirements of the Directive, and (in relation to the appropriate authorities), to secure that the requirements of the Directive for the achievement of its environmental objectives, and in particular programme of measures, are coordinated for the whole of the RBD. “Relevant functions” is defined by reference to those functions under the Regulations and those enactments listed in Schedule 2 to the Regulations.

Regulation 17 place a general legal duty on all relevant bodies (including the appropriate authorities, the EA, each public body), to “have regard” to the whole of the RBMP so far as affecting a river basin district. It should be noted that the definition of public bodies includes “statutory undertakers”, namely those persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator.

The difference in the wording of Regulation 3 and Regulation 17 should be underlined. Regulation 3 is more strongly worded than Regulation 17. Regulation 3 refers to ‘secure compliance with’ and applies to the implementation of sectoral legal acts or specific provisions (e.g. see below in relation to different individual decision). It sets a duty not to contradict RBMP. Regulation 17 uses the expression ‘have regard to’ and applies to all functions of the authorities. It would also imply an obligation to ensure that the decisions taken do not contradict the requirements of the RBMP although it also gives room to depart from these requirements albeit only if duly justified.

As stated above, sections 2 and 16 of the WEWS place equivalent duties on the Scottish Ministers, SEPA and responsible authorities, in relation to the Scotland and Solway Tweed RBMPs.

In Northern Ireland, Regulations 3 and 17 of the 2003 Regulations place equivalent duties on the Department, in relation to the RBDs lying wholly or partly within Northern Ireland.

6.1.2 Legal status in relation to individual decisions

The requirement under Regulation 17 for appropriate authorities, the EA and relevant public bodies to “have regard” to the RBMP will be binding on individual permitting decisions to the extent that such decisions affect a river basin district.

The following subsections describe the legal status of the RBMP in relation to specific types of permitting decision: hydropower installations; abstractions for agriculture; and, IPPC and other industrial installations.

**Hydropower installations:** As stated above, Regulation 3 places a general legal duty on the appropriate authorities and the EA to exercise their “relevant functions” so as to secure compliance with the requirements of the Directive. “Relevant functions” is defined by reference to those functions under the Regulations and those enactments listed in Schedule 2 to the Regulations, which includes functions under Parts 2 to 5 and 7 to 9 of the Water Resources Act 1991. Part 2, Chapter 2 of the 1991 Act makes provision in relation to abstractions and impoundments. Hydropower schemes can involve both abstraction and impoundment, or other physical modifications. Section 24 sets out the

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199 Regulation 2(1) of the 2003 Regulations and section 262 of the Town and Country Planning Act 1990
restrictions on abstraction, while Section 25 sets out the restrictions on impoundment, which in each case includes the requirement for a licence. In addition to an abstraction and/or impoundment licence, the EA may also require an Agreement to be drawn up, which defines certain further details on the way the scheme must be operated in order not to conflict with the EA’s river management duties, e.g. rights of access, the control of river levels, maintenance of the weir and river structures, fisheries and other environmental protection duties, etc. The EA’s Position Statement on Hydropower states that they have a regulatory duty to ensure that hydropower schemes are in compliance with environmental regulations such as the Water Framework Directive.

In Scotland, section 2 of the WEWS place equivalent duties on the Scottish Ministers, SEPA and responsible authorities, in relation to the Scotland and Solway Tweed RBMPs. “Relevant enactments” are listed in the Schedule to the Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011, and include the Water Environment (Controlled Activities) (Scotland) Regulations 2011, which regulate activities liable to cause pollution of the water environment.

In Northern Ireland, Regulations 3 and 17 of the 2003 Regulations place equivalent duties on the Department, in relation to the RBDs lying wholly or partly within Northern Ireland. “Relevant functions” are listed in Schedule 2 to the 2003 Regulations, and include the Water (Northern Ireland) Order 1999.

**Abstraction for agriculture:** As stated above in relation to hydropower installations, Regulation 3 places a general legal duty on the appropriate authorities and the EA to exercise their “relevant functions”, which includes functions under Parts 2 to 5 and 7 to 9 of the Water Resources Act 1991. Part 2, Chapter 2 of the Water Resources Act 1991 makes provision in relation to abstractions and impoundments. Section 24 sets out the restrictions on abstraction and the requirement for an abstraction licence.

In Scotland, section 2 of the WEWS place similar duties on the Scottish Ministers, SEPA and responsible authorities, to exercise their duties under “relevant enactments” which include the Water Environment (Controlled Activities) (Scotland) Regulations 2011, which regulate water abstractions.

In Northern Ireland, Regulations 3 and 17 of the 2003 Regulations place equivalent duties on the Department, in relation to the RBDs lying wholly or partly within Northern Ireland. “Relevant functions” are listed in Schedule 2 to the 2003 Regulations, and include the Water (Northern Ireland) Order 1999.

**IPPC and other industrial installations:** As stated above, Regulation 3 places a general legal duty on the appropriate authorities and the EA to exercise their “relevant functions”, which includes functions under the Environmental Permitting (England and Wales) Regulations 2010, which sets out the licensing system for IPPC and other industrial installations.

In Scotland, section 2 of the WEWS place similar duties on the Scottish Ministers, SEPA and responsible authorities, to exercise their duties under “relevant enactments”. Guidance issued by SEPA, “A Practical Guide (Part A Activities) Issues 2, on the Pollution, Prevention and Control (Scotland) Regulations 2000, which regulate IPPC activities, states that in granting permits, SEPA will have to take into account any emission limits or water quality standards which are set under the Water Framework Directive, as well as the relevant RBMPs for the areas in which the installation are situated.
In Northern Ireland, Regulations 3 and 17 of the 2003 Regulations place equivalent duties on the Department, in relation to the RBDs lying wholly or partly within Northern Ireland. "Relevant functions" are listed in Schedule 2 to the 2003 Regulations, and include the Pollution Prevention and Control Regulations (Northern Ireland) 2003.

### 6.2 Relationship with other sectoral policy plans

In addition to the statutory provisions of Regulations 3 and 17 (as specified above), a number of government planning policy documents provide guidance on the relationship with other sectoral policy plans, including the following:

#### England

- Planning Policy Statement PPS23 ‘Planning and Pollution Control’ advises planning authorities to take account of the WFD in the preparation of development plan documents.\(^{200}\)

- Planning Policy Statement PPS25 ‘Development and Flood Risk’ – states that "Regional planning bodies and Local Planning Authorities should prepare and implement planning strategies that help to deliver sustainable development by...a partnership approach...ensuring spatial planning supports flood risk management policies and plans, River Basin Management Plans and emergency planning".\(^{201}\) It also states that the preparation of Strategic Flood Risk Assessments by Local Planning Authorities "will enable them to contribute to, and take account of, the River Basin Management Plans required to be published by 2009 by the Environment Agency as part of the implementation of the EC Water Framework Directive."

#### Wales

- Planning Policy Wales (section 13.10.3) – "Where pollution considerations, which may be relevant to a pollution control authorisation or licence or result from the need to comply with any statutory environmental quality standards or objectives, affect the use and development of land they can be material planning considerations. This provision extends...in the case of water, to environmental objectives developed as part of the implementation of the European Union’s Water Framework Directive".\(^{202}\)

- Wales Spatial Plan (2004): “The Water Framework Directive requires us to manage water as a whole, including all the diffuse sources of pollution – especially from agriculture with its effect on water quality. This will have significant impacts, even though our water quality is generally very good by European standards.”

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\(^{200}\) Planning Policy Statement PPS23

\(^{201}\) Planning Policy Statement PPS25

\(^{202}\) Planning Policy Wales p 194 available at:
In addition to the above planning policy documents, ministerial guidance (namely River Basin Planning Guidance by DEFRA and the Welsh Ministers, as referred to in the Annex to each RBMP) states that a large part of river basin management should involve reviewing existing policies, plans and measures and amending them where necessary to meet Water Framework Directive’s objectives. In particular, the Environment Agency should work with other public bodies to develop good links between river basin planning and other relevant plans and strategies, especially those plans which have a statutory basis (for example Regional Spatial Strategies203/ Wales Spatial Plan; Local Development Frameworks (England), Local Development Plans (Wales)). Furthermore, the guidance states that this partnership should be a two way process.204

Annex J to each river basin management plan also states that “To properly align river basin management and spatial planning to achieve the objectives of each regime we will all have to apply new standards, and over a period of time, review external guidance and policy and Environment Agency advice to spatial planners so that development plans and planning applications become Water Framework Directive compliant.” The Annex indicates three main areas in which spatial planning and river basin management planning can be better aligned:

i) Providing the evidence support to the spatial planning system through river basin management - Using the river basin management process to provide a robust evidence base to help the key planning stages of spatial plan options development and site allocations;

ii) Providing Planning Guidance. Further work by the Government (supported by the Environment Agency) to clarify the implications for spatial planning and delivery of planned development.

iii) Providing spatial planning advice as statutory consultee - To ensure that Water Framework Directive objectives are better aligned with existing Environment Agency processes for engaging with spatial planning and the advice we provide to planning authorities.205

In Scotland, the National Planning Framework 2 states that “there will be a need for effective interaction between development plans and RBMPs in this strategic approach to water management”. The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 state that the strategic development planning authority must have regard to any RBMP relating to the strategic development plan area and the local plan area. This is also reflected in Circular 1/09 for both Strategic Development Plans and Local Development Plans. Paragraph 23 of the Planning Advice Note (PAN) 51 on “Planning, Environmental Protection and Regulation” states that “the RBMP will inform the preparation of development plans and where appropriate will be a material consideration in the determination of planning applications with successive plans then informing each other”.

202 Regional Spatial Strategies have been abolished by s109 of the Localism Act 2011
205 All 11 RBMPs are available at http://www.environment-agency.gov.uk/research/planning/33106.aspx
7 Enforcement, control, inspection and sanction systems

The Water Framework Directive calls on Member States to identify a range of controls as part of their Programmes of Measures (Art. 11(3)), including controls on freshwater abstraction and impoundment and controls on point sources and diffuse sources of pollution.

7.1 Issuing Permits

The authorities responsible for issuing the permits required for the different types of pressures/activities (abstractions, impoundments, point source discharges, diffuse pollution measures, hydromorphological alterations) are the 3 environmental regulatory bodies: EA, SEPA and NIEA.

Permits (licences) are coordinated by the main WFD competent authority.

There is an inventory of permits (licences).

The 3 competent authorities as stated above are responsible for licensing. In Northern Ireland for example this is done through a specific AIL team (abstraction, impoundments licensing team) within the Department of the Environment.

7.2 Permit applications

The process for application for a permit is described below.

The process is dependant largely on the degree to which planning authorities are involved, i.e. on planning permission. In this instance the local authority is required in considering an application to pass the information to the statutory consultees, the environmental regulator, who may make recommendations; which may in turn be overruled by both the local authorities and national planning authorities. This would for example be the case for development in the flood plain.

The process applies for all water types and scales.

Regarding permits for hydromorphological alterations, there may be situations in which the applicant for the permit is also involved in water resource management. The 3 environmental regulators may promote and review flood management infrastructure which may have hydromorphological alterations. Any such alterations must comply with the WFD, and not conflict with the PoMs.

Regarding permits for point source discharges and diffuse pollution measures, there is no possibility for situations in which the applicant for the permit is also involved in water resource management.

Regarding permits for abstractions and impoundments, it is unclear whether there could be situations in which the applicant for the permit is also involved in water resource management.

The three Competent Authorities are responsible for abstraction in the four administrations in the United Kingdom. In England and Wales anyone wanting to take more than 20m³/day from a ‘source of supply’ (river, stream lake, well, etc.) must have an abstraction licence. The application process for abstraction is similar to the planning
process in that they generally require the application to be advertised and may require supporting environmental information. When considering the application, checks are made that the quantities applied for and the purpose of the abstraction are reasonable, that there is sufficient water available to support it and that the potential impacts on the environment and other water users are acceptable. Depending on the outcome of CA investigations they issue a licence either as applied for, or with conditions that restrict the abstraction to protect the environment or other users. In certain cases they refuse the application. Any applicant who is not happy with the determination (decision) has the right to appeal. In Scotland a separate legal process is administered under the CAR regime (The Water Environment (Controlled Activities)(Scotland) Regulations 2011).

In Northern Ireland this is done through a specific team (AIL) within the Environment Agency (NIEA)

7.3 Enforcement of permits: authorities

In England and Wales, the Environment Agency (EA) is the lead authority for environmental inspections and enforcement, including water abstraction and water impoundment. The EA is also responsible for management and enforcement related to diffuse source measures and hydromorphological modifications. Local government authorities also have certain enforcement powers in relation to Part A(2) and Part B permits. Natural England and the Countryside Council for Wales have some enforcement powers, relating mainly to nature conservation. The police have no direct role in enforcement, unless in cases of serious organised crime, where intelligence will be shared between the authorities.

In Northern Ireland, the Northern Ireland Environment Agency (NIEA), an agency within the Northern Ireland Department of Environment, is the lead authority for environmental inspections and enforcement.

In Scotland, the lead authority is the Scottish Environment Protection Agency (SEPA), which is responsible for the enforcement of all water-related permits.

As noted above, the UK has separate enforcement authorities for England and Wales, Northern Ireland and Scotland. In addition, some enforcement is carried out by local authorities.

There are no separate authorities responsible for enforcement of different economic sectors.

In general, the EA, NIEA and SEPA are the lead enforcement authorities across all the different sectors.

Industry: England and Wales: The EA is responsible for inspection and enforcement of most (about 90%) IPPC installations; local authorities regulate and enforce compliance at selected installations, in general smaller ones (Pursuant to Regulation 32 of the EP Regulations 2010, the EA is responsible for Part A(1) installations, Part A(1) mobile plant and certain waste operations. Local authorities are responsible for the regulation of Part A(2) installations and Part A(2) mobile plant as well as Part B installations and Part B mobile plant (emissions to air only). While LA’s regulate Part A(2) permits, which cover emissions to air and water, the EA offer support in setting permit conditions. In cases where the EA regulate a Part A(1) facility, at which other Part A(2) activities are also carried out, the EA can also agree with the LA to be lead regulator, and regulate the
whole site, rather than have two different regulators covering activities on the same site. Within the EA, a Local Authority Unit also provides guidance to local authorities on behalf of government and provide technical assistance to ensure consistency. The unit also includes a SEPA assignee, in order to cover Scotland as well. SEPA is responsible for all IPPC installations in Scotland. The NIEA is responsible for enforcement of IPPC installations in Northern Ireland.

**Agriculture:** As above. The EA, SEPA and the NIEA are responsible for the enforcement of water-related permits in the agricultural sector, in each respective jurisdiction.

It should be noted that in Scotland a partnership has been set up, the Scottish Environmental and Rural Services (SEARS), which brings together different bodies including SEPA, Scottish Natural Heritage (SNH) and the Scottish Government Rural Payments and Inspections Division (SGRPID). The aim is to provide a joined-up service to Scotland’s rural land managers by rationalising inspections carried out by the SEARS partners. For example, SGRPID now carry out SEPA’s Controlled Activities Regulation (CAR) and General Binding Rules (GBR) inspections during land-based inspections, and SGRPIC carry out SEPA’s groundwater authorisation inspections during sheep inspections. Inspections at farms are therefore streamlined, by having SGRPID officers carry out day to day inspections of low-risk activities on behalf of SEPA. Where anything is found to be amiss, they contact SEPA, who would follow up. Since the start of SEARS, SEPA has trained large numbers of colleagues in SGRPID, as well as other organisations, to assess compliance with the CAR engineering regime and diffuse pollution GBR’s. However, in the majority of cases, SEPA still carry out the main water-related inspections.

A similar partnership is in operation in England and Wales, between the Rural Payments Agency (RPA) and the EA, where a single farm inspection is carried out by the RPA, covering water regulation as well. While inspections are carried out on its behalf by the RPA, the EA remains the regulator, and will follow-up on any issues identified during the inspections.

**Hydroelectric plants:** As above. The EA, SEPA and the NIEA hold responsibility in the respective jurisdictions. (In most cases, SEPA enforce any engineering activities near water through a CAR licence rather than GBR’s.)

There are no separate authorities responsible for the enforcement of different types of water-related permits.

The EA, the NIEA and SEPA are the lead enforcement authorities across all different types of water permits.

In England and Wales, the only aspect that falls outside the remit of the EA, are discharges by water companies into their own sewers. In these cases, standards are set by the sewerage undertaker, and the EA is only involved in relation to discharges by the sewerage authority. In all other cases of water permits, the operator is either directly regulated by the EA or it sets the standards to be applied.
7.4 Coordination on enforcement

7.4.1 Among enforcement authorities
The three enforcement bodies are responsible for separate geographic areas. No information found on coordination among them.

7.4.2 Between enforcement and water management authorities
The enforcement authorities and water management authorities are not separate entities.

The three main enforcement authorities, the EA, the NIEA and SEPA, are the main authorities for water management, which are responsible for both water management and enforcement.

However, as noted above, a degree of coordination is carried out with other bodies in the agricultural sector under SEARS and the RPA. Also Natural England and the Countryside Council for Wales have some powers if an incident impacts on a habitats site. Aside from this, the EA is the main regulator. In cases of hydroelectric plants and mining operations etc., the planning authority is responsible for issuing planning permission, although the EA will issue the permit.

Under River Basin Management Planning, SEPA highlight pressures on the water environment and what regulatory and non-regulatory action they are going to take. SEPA work with both national advisory groups, regional advisory groups, organisations such as SNH, local fisheries trusts, RSPB etc, and all major stakeholders to coordinate non-regulatory improvements. SEPA however, carry out all regulatory measures.

The EA also works with Fire & Rescue Service partners, who are first on the scene in road traffic accident, diesel spill etc., and therefore have been provided with training and pollution reduction kits by the EA in order to respond to minor pollution incidents.

7.5 Enforcement actions

7.5.1 Number of inspectors
Information on the total number of inspectors working on water-related permits was not found.

England and Wales:

As of 2010 there were 246 dedicated Pollution Prevention and Control (PPC) officers and approximately 3000 warranted officers who play a role in inspection and/or enforcement activities relating to IPPC installations. No data were found specifically in relation to water-related permits in industry.

Scotland:

In Scotland, SEPA regulates under the Pollution Prevention and Control Act 1999 (PPC – enacting the IPPC Directive) for integrated licences under Part A and Part B. SEPA also regulates the Water Environment (Controlled Activities) Regulations (CAR) 2011 (enacting the Water Framework Directive) for point source and water resources activities. The figures here relate to 2011-12. Scotland: The data cannot be broken
down by sector but overall approximately 115 inspectors are dealing with specific water related permits (CAR).

In 2011-12, there was 239 FTE of SEPA staff working on a wide range of activities which support regulation of the CAR – including applications, variations, inspections, enforcement, monitoring, sampling, modelling etc. There is also a team of approximately 32 dedicated officers who undertake integrated licensing, inspection and enforcement (note that this figure is from 2012 and does not include related monitoring, sampling and modelling activities etc.) under PPC Part A, Contaminated land regulations and Radioactive Substances Act, some (but not all) of which have water-related issues. Of these approximately 30% of their time is spent dealing with water issues.

7.5.2 Number of inspections

**England and Wales:**

Information was not found on water-related inspections in England and Wales. (It can be noted that the EA bases inspection decisions on a range of tools: Operational Risk Appraisal (OPRA), The Common Incident Classification Scheme (“CICS”), Compliance Classification Scheme (CCS), and Compliance Assessment Plans (CAPs). These tools are used to identify facilities which pose the greatest risk.)

It should also be noted that as well as inspections of known permitted facilities, the EA operates a catchment system, where catchment officers for each of the catchments walk the area to check for diffuse pollution, unpermitted sites etc., and generate campaigns and an action plan based on the results of these walkovers. These new catchment walkovers are as a direct result of the introduction of river basin management planning, and enable the EA to target resources where they are needed to directly tackle any issues arising in the catchment area.

In 2010, the Environment Agency conducted between 6000-6500 IPPC inspections, and spent a total of 223,460 hours on inspection and enforcement of IPPC facilities. No data is available specifically in relation to water.

**Northern Ireland:**

In 2009, the Northern Ireland Environment Agency carried out 116 inspections related to water pollution.

**Scotland:**

In Scotland, SEPA regulates under the Pollution Prevention and Control Act 1999 (PPC – enacting the IPPC Directive) for integrated licences under Part A and Part B. SEPA also regulates the Water Environment (Controlled Activities) Regulations (CAR) 2011 (enacting the Water Framework Directive) for point source and water resources activities. The figures given below relate to number of inspections completed in 2010-11.

In 2010-11, approximately 5000 CAR inspections were undertaken, comprising 4000 inspections of point source activities and 1000 inspections of water resource activities. In the same year, 1539 inspections of PPC Part A facilities and 435 inspections of PPC Part B facilities were conducted.
7.5.3 Number of infringement actions

**England and Wales:**

In the 2008/9 operating year, the Environment Agency prosecuted 631 individuals and organisations under the Water Resources Act.

In 2010, for IPPC-related violations, 3 prosecutions commenced, 3 prosecutions ended successfully in court convictions, 5 formal cautions were serviced and 5 enforcement notices issued. This data refers to all IPPC offences, and not specifically in relation to water. (Milieu IPPC study)

**Northern Ireland:**

In 2009, 58 warning letters were served for incidents related to water pollution, and 39 cases were referred to the public prosecutor’s office.

Of the 39 water-pollution cases referred to the public prosecutor, 15 concerned the agriculture sector.

**Scotland:**

In the 2010/11 operating year, SEPA served 58 final warning letters and 27 statutory notices related to water, and referred 18 water-related cases to the Procurator Fiscal (public prosecutor) for potential court prosecution.

In the 2010/11 operating year, SEPA served 14 final warning letters and 19 statutory notices related to IPPC permits, and referred 2 IPPC-related cases to the Procurator Fiscal (public prosecutor) for potential court prosecution. This data refers to all IPPC offences, and not specifically in relation to water.

7.5.4 Other mechanisms (in addition to inspections)

**England and Wales:**

Permit control is largely carried out through visual inspections of permitted sites and more in-depth audits, which are used to target problem sites. In addition, where the EA used to carry out monitoring, it has now placed this responsibility on operators. Operators are now required to monitor themselves under the conditions of the permit, and submit the results to the EA. The EA will then check the results of monitoring and take further action in relation to any problems identified, as well as carry out check monitoring on a random basis. The EA can also take formal enforcement action and serve enforcement notices as well as a range of other enforcement tools which can be served on permit operators. Anti-pollution works notices can also be served on operators, irrespective of whether or not a permit is held, and can result in prosecution. Where works are not carried out by the operator, the EA can step in and do these and recover the costs from the operator. The EA also have powers under the Oil Storage Regulations and the Silage, Slurry and Agricultural Fuel Oil Regulations, to set standards that farms have to achieve and can serve notices requiring action. The EA also use an Operational risk appraisal (OPRA) to score sites according to the inherent risk of the site, its location and the previous performance of the operator, which represents a move towards risk-based assessment and regulation, in order to target regulatory effort on high-risk cases. OPRA scores are published ensuring consistency across the country. The EA also carried out campaign work to improve compliance, where it analyses all data
on water pollution incidents across the country and identifies if there is a need for targeted campaigns.

**Scotland:**

SEPA refers to the use of a variety of tools to encourage compliance, including publication of information on SEPA’s website, discussions with operators as well as promoting good practice, audits, the use of environmental management systems such as EMAS for larger operators, in addition to inspections and enforcement. Enforcement action is taken as a last resort. SEPA also use a Compliance Assessment Scheme, which may inform enforcement, but is not enforcement in itself. Following any inspection or complaint, SEPA will write a report and provide this to the operator. An annual assessment is then carried out which looks at compliance of the operator throughout the year, the results of which are published on the SEPA website. Publication of annual compliance levels is used across all sectors now to deliver improvements, through naming and shaming. SEPA have also introduced a link between the Compliance Assessment Scheme and the charging scheme for PPC sites.

### 7.6 Types of administrative and criminal sanctions

#### 7.6.1 Sanctions established in national legislation

**England and Wales:**

The EA has a variety of administrative enforcement tools, including the capacity to issue enforcement notices requiring specific action on the part of a violator, prohibition notices to stop activities, and suspension or revocation notices. A number of other enforcement tools exist including remediation notices and information notices. Pollution offences prosecuted through the courts vary according to the offence and in some cases the level of fine which may be imposed is unlimited. As there are a variety of tools available, it is a question of choosing the best tool in order to achieve the outcome, rather than not having the tools available.

In addition, in 2010 the EA received the power to impose civil sanctions for a range of environmental offences, including those under major water legislation (Water Resources Act 1991, Nitrate Pollution Prevention Regulations 2008, and Water Industry Act 1991, among others). In general, these include fixed monetary fines for small offences: GBP 300 (about 360 Euros) for organisations and GBP 100 (about 120 Euros) for natural persons. In addition, variable monetary fines for major offences can range up to GBP 250,000 (about 300,000 Euros). While the majority of enforcement undertakings accepted by the EA to date relate to packaging legislation, enforcement undertakings have also been accepted in relation to the Salmon and Freshwater Fisheries Act 1975 and the Control of Pollution Oil Storage England Regulations 2001. The use of civil sanctions provides another option to the regulator without having to go to the courts, particularly in cases where the operator is cooperating with the EA.

**Northern Ireland:**

The NIEA can use a variety of enforcement tools, such as the issue of enforcement notices. Criminal fines and other penalties are imposed under criminal law and therefore must be determined by the courts.
Under Article 7 of the Water (Northern Ireland) Order 1999, it is an offence to knowingly or otherwise discharge or deposit any poisonous, noxious or polluting matter so that it enters a waterway or water contained in any underground strata, or discharge or deposit any matter so that it enters a waterway or water contained in any underground strata and tends either directly or in combination with similar acts (whether his own or those of another) to impede the proper flow of the water of the waterway or strata in a manner leading or likely to lead to pollution or a substantial aggravation of pollution due to other causes or of its consequences. A person guilty of an offence shall be liable (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both; (b) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £20,000 (about 24,000 Euros) or to both.

Where it appears to the Department that a contravention of Article 7(1) is likely to occur, the Department may serve a notice on the owner of the land or the person, prohibiting the use complained of, or permitting it only subject to conditions designed to remove the grounds of complaint, or requiring it to be stopped within a certain period. Under Article 8(5), it is an offence for any person to contravene any prohibition, condition or requirement imposed by the notice, and shall be liable to imprisonment for a term not exceeding 2 years or to a fine or to both if convicted on indictment, or on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum.

Under Article 12, an enforcement notice may also be served where the Department is of the opinion that the holder of a discharge consent is contravening or likely to contravene any condition of a consent. Any person who fails to comply with an enforcement notice shall be guilty of an offence and liable on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both, or on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £20,000 or to both. In addition, the Department also has the power under Article 16, to carry out works and operations as it considers appropriate, where it appears that any poisonous, noxious or polluting matter is likely to enter, or to be or have been present in any relevant waters, and recover the costs of doing so from the person in default.

Finally, Regulation 25 of the Groundwater Regulations (Northern Ireland) 2009, which sets out the requirement for an authorisation to discharge to groundwater, also provides that where any person is carrying on, or proposing to carry on, any activity on or in the ground and that activity might lead to the input into groundwater of any hazardous substance or non-hazardous pollutant, the Department may serve notice in writing on that person prohibiting the carrying on of that activity, or granting an authorisation to carry on that activity subject to such conditions as are specified in the notice. Breach of a notice or failure to comply with any condition of a notice served by the Department is an offence. Regulation 29 provides that a person guilty of an offence under regulation 25 is liable (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months, or (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years.

Scotland:

SEPA has the power to issue enforcement notices and other administrative enforcement measures. Criminal penalties however are imposed under criminal law and must therefore be determined by the courts.
Regulation 4 of CAR 2011 sets out the prohibition that no person shall carry on, or shall cause or permit others to carry on, any controlled activity except insofar as it is authorised under the Regulations and carried out in accordance with that authorisation. Part V of CAR 2011 makes provision for enforcement and other powers. Regulation 31(1) sets out SEPA’s duty to monitor compliance with, and to enforce the provisions of the Regulations. Under Regulation 32, SEPA may serve an enforcement notice if a person has carried out, is carrying out or is likely to carry out a controlled activity and SEPA is of the opinion that the activity – (i) has contravened, is contravening or is likely to contravene an authorisation under the Regulations; (ii) has caused, is causing or is likely to cause significant adverse impacts on the water environment or any part of it; or (iii) has caused, is causing or is likely to cause a direct or indirect discharge into groundwater of any hazardous substance or any other pollutant.

An enforcement notice served under Regulation 32 will specify the steps to be taken by the person responsible or the operator which SEPA considers to be necessary or appropriate to prevent, mitigate or remedy the contravention of the authorization, the adverse impacts on the water environment or the direct or indirect discharge into groundwater. Such steps may include cessation of the controlled activity for such period as SEPA considers necessary or appropriate. In addition, SEPA has the power under Regulation 33 to carry out works itself and to recover the costs of doing so from the responsible person or operator.

Regulation 44 provides that it is an offence for a person to contravene Regulation 4, to fail to comply with or contravene a general binding rule, registration or water use licence, or fail to comply with the requirements of an enforcement notice issued under Regulation 32(2), amongst other offences. However, Regulation 35 also provides that if SEPA is of the opinion that criminal proceedings for an offence of failing to comply with an enforcement notice would afford an ineffectual remedy against a person, it may take proceedings in any court of competent jurisdiction for the purpose of securing compliance with the enforcement notice.

In the 2010/11 operating year, SEPA water-related investigations led to 6 convictions in court. In 5 cases, fines were issued. The average fine was GBP 5840 (about 7000 Euros).

While SEPA does not have the ability to impose civil sanctions at present, SEPA and the Scottish Government are currently consulting on “Proposals for an Integrated Framework of Environmental Regulation”, which states that there is a disproportionate use of criminal sanctions, and therefore that SEPA needs other tools in addition to criminal prosecution. In addition to changes to the enforcement tools available to SEPA, it is therefore proposed to introduce a low fixed financial penalty, as well as a higher financial penalty which would be capped at £40,000. In addition, it is also proposed to introduce enforcement undertakings into the Scottish system, and that the power to impose publicity orders is given to the courts as an additional sentencing option. The offences for the main regimes, which include water, will be consolidated into a single set of offences, which relate to knowingly causing significant environmental harm. At present, given that there are approximately 200 offences for which SEPA is the main regulator, there is usually a choice as to which offence to prosecute. For example, within the water regime, if the offence relates to a PPC site, the case could be prosecuted under either the PPC legislation or CAR.
7.7 Strengths, weaknesses and changes to the enforcement system

7.7.1 Strengths of the system of inspections and enforcement

**England and Wales:**

1) The EA works with good performers so that they continue to deliver effective environmental protection and improvement, but takes action against unacceptable performance. The EA uses a ‘risk-based’ approach to target resources on poor performers and illegal operators who pose the highest environmental risk. A key element of this modern regulation approach is OPRA, a tool which provides a means of objectively assessing the risks from an activity. The assessment provides a risk-rating, or profile, which is used as part of the compliance assessment process. The EA can identify those with a higher risk to the environment and target them appropriately. The OPRA profile for an activity also determines how much businesses are charged for regulating an activity. This approach, which focuses on priorities, helps business and individuals to reduce their impact on the environment and rewards good performers, is responsive, reduces bureaucracy and minimises compliance costs.

2) The EA operates a compliance classification system (CCS), which categorises non-compliance on the basis of the potential to cause environmental damage. These are categorised according to major, significant, minor or no environmental impact. This provides consistency across different regulatory regimes in terms of how breaches of permit conditions are reported.

3) The EA have recently introduced 15 sector groups, which include agriculture and water companies as individual sectors. Each sector group reviews the resource available, the number of permits held and the challenges facing that sector. Based on this, sector plans are drawn up, which identify concerns and how best to address these using a tailored approach. This allows targeted use of resources and coordinated on a sector-by-sector basis.

**Scotland:**

SEPA operates a compliance inspection system for authorised activities. The system is risk-based with activities posing the greatest risk to the water environment being subject to more frequent inspections. The system is funded through charges levied on the operators of authorised activities. The compliance assessment scheme is in the process of being updated to ensure environmental risk is reflected consistently in the inspection regimes for different activities and to take account of operator past performance. The inspection programme is relatively easy to administer by working out the risk and what resource is available, and allocating the resource appropriately. This is administered throughout the country to ensure a level of consistency across Scotland. As a large part of the day to day work of SEPA officers is inspections and enforcement, officers build up a relationship with operators through inspections, and can usually ensure compliance with the licence. By carrying out lots of inspections and finding more issues of compliance, the regulator is less likely to go straight to enforcement as is likely to give the operator time to comply. If less enforcement action was carried out, enforcement action may be taken immediately if it is though that an inspection will not be carried out.
again for years, and therefore may not be proportionate. In respect of enforcement, SEPA operates in accordance with its Enforcement Policy – Policy No.5, which aims to ensure that enforcement action is proportionate and that a consistent approach is take to enforcement. SEPA has adopted two types of approach to enforcement, that of seeking to secure compliance with the legislation, and that of deterrence by identifying non-compliance and prosecuting offenders. SEPA therefore operates an enforcement policy which is proportionate and progressive. The main strengths of the system are therefore the consistent application of inspections and enforcement, and the publication of results, so that those who are regulated by SEPA know what to expect.

### 7.7.2 Weaknesses of the system of inspections and enforcement

No information provided for England, Wales and Northern Ireland.

**Scotland:**

Inspections take up a lot of time, are resource heavy and may not always be the most effective method of dealing with certain problems. While the Compliance Assessment Scheme attempts to make inspections more efficient and effective, there are still improvements that could be made. The risk-based system of inspections has however recently been updated and improved. There is a need to focus on where the harm is. However, inspections and traditional enforcement is not always the best way of doing this. For example, in the case of small hydro-schemes that are not maintained to the appropriate standards, it may be an idea to go to the sector, e.g., national grid, and address the problem through other methods as the level of fine that may ultimately be applied, may be very low compared to what the operator is paid by national grid. In terms of enforcement, difficulties arise in ensuring that criminal charges are correctly framed. The introduction of full-time specialist environmental prosecutors has improved the situation and as referred to above, the Scottish Government and SEPA are currently consulting on proposals to introduce powers for SEPA to be able to fine operators of activities for minor offences rather than taking action through the courts.

### 7.7.3 Influence of the WFD and the RBMPs on enforcement

It is thought that the RBMPs have strengthened enforcement.

**England and Wales:**

Existing regulatory regimes covering abstraction and pollution control are applied so as to secure WFD requirements and have been amended or supplemented where required to address morphological issues and enhance controls on diffuse pollution. While enforcement tools existed before, RBMP's have brought all elements together in a coordinated and targeted way. In particular, the catchment approach adopted by the EA highlights how enforcement has been strengthened, as while the permitted sites within the catchment will be enforced in the same way, a catchment walkover can now identify any misconnections, diffuse discharges or non-permitted sites, and therefore have helped to target the whole catchment.

**Scotland:**

If the WFD had not been introduced, regulation of the water environment would be based on the Control of Pollution Act (COPA), which dealt with point source discharges only. However, to implement the WFD, Scotland introduced a system of regulatory controls on a wide range of activities, including activities giving rise to diffuse source
pollution, water abstraction, impoundment of water and engineering works in the water environment, through the provisions of the Water Environment and Water Services (Scotland) Act 2003 (WEWS) and CAR 2011. Previously, controls on these activities were disparate and incomplete. The new regulatory controls introduced provide for a single system of enforcement, allow control of diffuse pollution and other activities and therefore widened the scope of enforcement in the water environment. While there has always been the facility to report cases for prosecution based on offences under COPA, there is now greater scope under WEWS and CAR 2011 to take action in relation to a wider set of activities. As RBMP’s were introduced as a result of the WFD, enforcement action cannot be said to have changed as a result of RBMP’s, but rather as a result of the WFD. While RBMP’s have not changed enforcement, they do however provide supporting information, which is helpful.
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