

6th Screening Workshop

Environmental objectives and exemptions

17 – 19 October 2015
ECRAN 60743

Use of the economic analysis for the justification of exemptions



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Structure of the presentation

Environmental objectives and exemptions

WFD requirements for applying exemptions to the environmental objectives

Disproportionate costs

Cost of measures

Justifying exemptions in transboundary context



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The environmental objectives and the exemptions

The environmental objectives and the exemptions are set under Article 4 of the WFD. The subsequent paragraphs aim at describing Article 4, mainly the exemptions, in a summarised way and in the order presented in the Directive.

Article 4 WFD sets out the "**environmental objectives**" mainly in Article 4.1.

The **main environmental objectives** in the Directive are manifold and include the following elements (a) surface waters, (b) groundwaters and (c) protected areas):

- **No deterioration** of status for surface and groundwaters and the protection, enhancement and restoration of all water bodies;
- Achievement of good status by 2015, i.e. good ecological status (or Potential) and good chemical status for surface waters and good chemical and good quantitative status for groundwaters;
- **Progressive reduction of pollution** of priority substances and **phase-out** of priority hazardous substances in surface waters⁵ and prevention and limitation of input of pollutants in groundwaters;
- **Reversal** of any significant, upward **trend** of pollutants in groundwaters;
- Achievement of Standards and objectives set for **protected areas** in Community legislation.



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WFD exemptions requirements (1)

- **Article 4: the core article - of the Water Framework Directive!**
- CIS Guidance Document no. 20
- **Environmental objectives and exemptions**
- The environmental objectives are defined in Article 4
- The aim is long-term sustainable water management based on a high level of protection of the aquatic environment.



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WFD exemptions requirements (2)

- Article 4.1 defines the **WFD general objective** to be achieved in all surface and groundwater bodies, i.e. good status by 2015, and introduces the principle of preventing any further deterioration of status.
- The **exemptions** to the general objectives that allow for less stringent objectives, extension of deadline beyond 2015, or the implementation of new projects, provided a set of conditions are fulfilled.
- The key element in making the general environmental objective operational in a harmonized way throughout the EU is the intercalibration exercise.



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More on exemptions

- Article 4.4, 4.5, 4.6 and 4.7 describe the conditions and the process in which they can be applied. These exemptions range from small-scale temporary exemptions to mid and long term deviations from the rule "good status by 2015", and include the following physical characteristics of a surface water body or
 - alterations to the level of bodies of groundwater, or failure to prevent status
 - deterioration of a body of surface water (including from high status to good status) as
 - a result of new sustainable human development activities (Article 4.7)
- Paragraphs 8 and 9 of Article 4 introduce **two principles applicable to all exemptions**:
- exemptions for one water body must not permanently exclude or compromise achievement of the environmental objectives in other water bodies
- at least the same level of protection must be achieved!

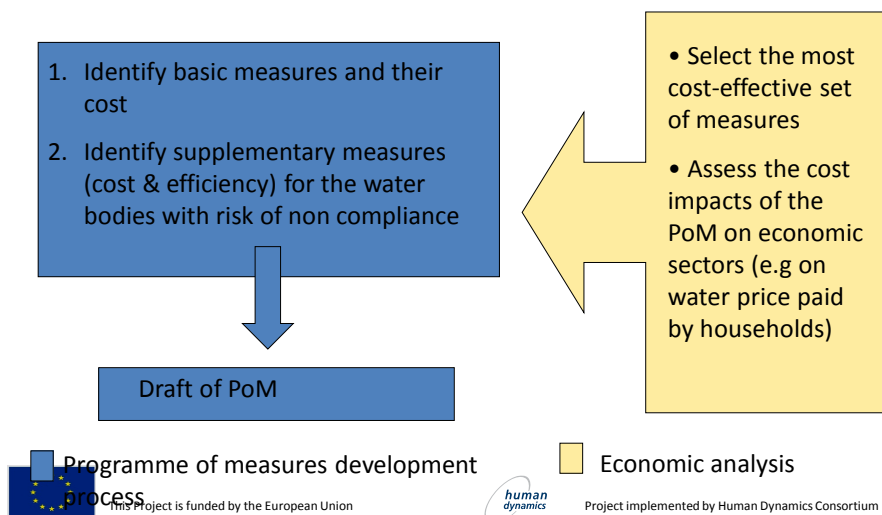


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Implementation steps of economic analysis



Proportionality/ disproportionality of costs of measures

Measures in order to justify potential exemptions from the WFD environmental objective of good surface water status by 2015 (Art.4) can include:

- time derogation (Article 4.4 WFD) involving an extension of the timeframe in which the objectives have to be reached (beyond 2015)
- less stringent environmental objectives (Article 4.5 WFD) due to unfeasibility or disproportionate costs of the measures that would be required for reaching good water status
- derogation obtained for new (hydromorphological) modifications and new sustainable economic activities that lead to a deterioration in water body status (Article 4.7 WFD)



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Disproportionate costs

'Disproportionality', as referred to in Article 4.4 and 4.5, is a political judgment informed by economic information, and an analysis of the costs and benefits of measures is necessary to enable a judgment to be made on exemptions.

WATECO guidance: given the uncertainty around estimates of costs and benefits one should bear in mind that,

- Disproportionality should not begin at the point where measured costs simply exceed quantifiable benefits;
- The assessment of costs and benefits will have to include qualitative costs and benefits as well as quantitative;
- The margin by which costs exceed benefits should be appreciable and have a high level of confidence;
- In the context of disproportionality the decision-maker may also want to take into consideration the ability to pay of those affected by the measures and some information on this may be required.

From the logic of the WFD it becomes clear that an assessment of disproportionate costs only makes sense after a combination of the most cost-effective solutions has been identified.

For all cases where an exemption is applied, all measures that can be taken without involving disproportionate costs should still be taken to reach the best status possible.

In cases where exemptions are considered the consequences of non-action (i.e. foregone benefits) need to be weighed against the specific costs of the measures.



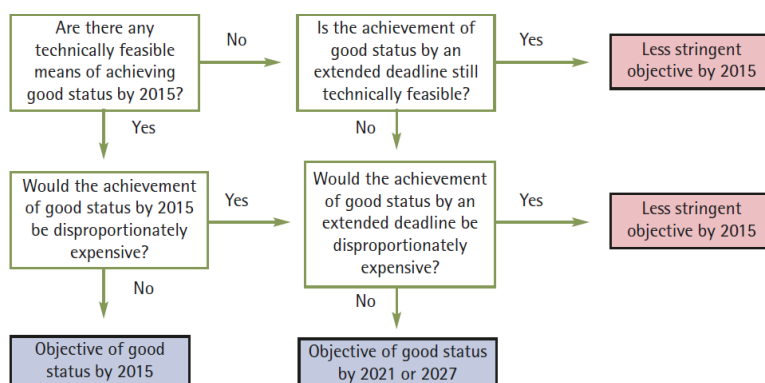
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Justifying exemptions

Stepped approach to the main tests justifying the use of extended deadlines and less stringent objectives



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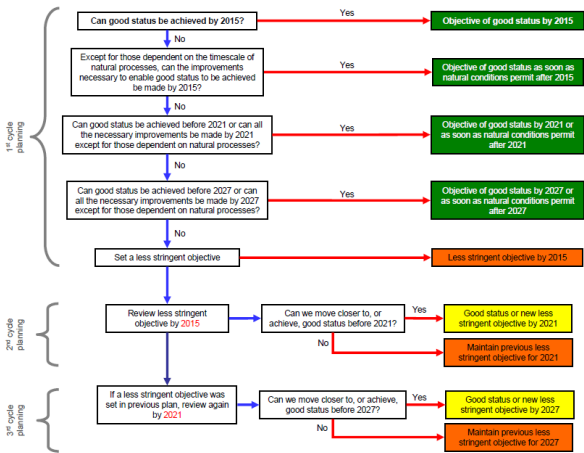


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Dynamic and iterative process for applying exemptions

Good status is conformed through monitoring data!!

Reduced no of water bodies requiring exemptions in the next cycle!!

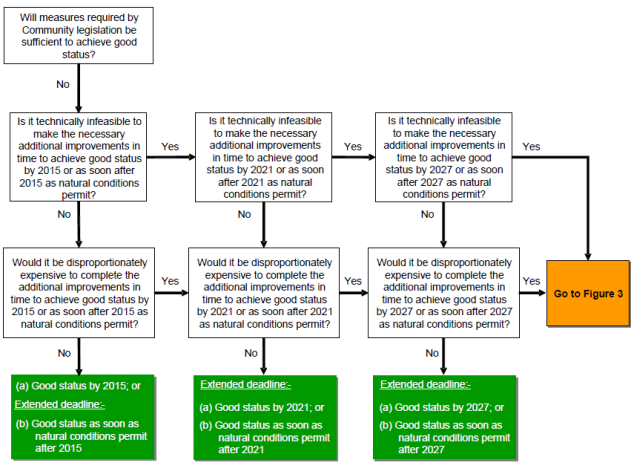


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Assessing disproportionate costs (1)

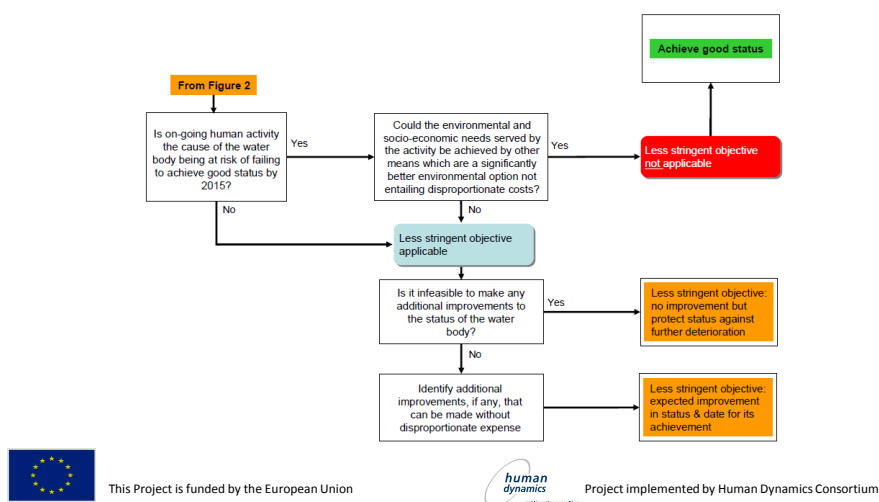


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Assessing disproportionate costs (2)



Principles for applying exemptions in a transboundary context (1)

Exemptions may be applied in cases where a certain Member State cannot resolve the reasons for not achieving the environmental objectives because they lay outside the competence and jurisdiction of the Member State.

When applying such an exemption, the following principles should be considered:

The coordination mechanisms as mentioned in WFD Article 3.4 or Article 3.5 or covered by other pieces of legislation (e.g. air quality) should be in place and have been exploited to the fullest extent to resolve the problem.

The Member States concerned should coordinate their efforts to apply the most cost effective solution to solve the environmental issue for which an exemption may be required.



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Principles for applying exemptions in a transboundary context (2)

The Member State has to take all measures on its own territory that will contribute to achieving good status, and that are not disproportionate expensive or technically infeasible.

The Member State has to demonstrate that the reasons for not achieving the environmental objectives are outside its jurisdiction and its competence. This could for example be done by information provided by the other Member State, and/or by information provided by a monitoring point at the border between the Member States concerned or by other means.



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Reasons for applying exemptions in a transboundary context

- Exemptions in a transboundary context could relate to transboundary pollution, but also to hydro-morphological alterations or other transboundary ecological impacts or in the case of extreme events.
- When a Member State is reporting to the Commission under Article 12, it will have to provide information which support their argument and allow the Commission to verify that the nonachievement of an objective is clearly linked to the transboundary pollution or other transboundary effects.
- Such demonstration of evidence can be achieved through an appropriate and targeted monitoring strategy or a comprehensive risk analysis in accordance with Article 5 and Annex II WFD.



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Thank you!



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