




# **Planning documents as part of EU requirements**

**Monica Bergsten**

**Swedish Agency for Marine and Water Management**

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## **Introductory considerations**

- **Planning documents at EU level or required by EU Level:**
  - There are different types:
    - Policy: all Environmental Action Plans;
    - Thematic strategies – 7 fields: air pollution, waste prevention and recycling, marine environment, soil, pesticides, natural resources and urban environment;
    - Sector framework directives: air (Dir.2008/50/EC), water (Dir.2000/60/EC), marine (Dir.2008/56/EC), waste (Dir.2008/98/EC)
    - Specific plans/programmes: National waste management plans, river basin management plans, etc.

## Background



- Environmental policy is not an "original" one;
- Stockholm Convention (June 1972) triggered the action at EC level;
- Paris Declaration (October 1972) —→ led to development of 1st Action Programme, which represents the actual "beginning" of EC/EU environmental policy;
- Initially was a targeted approach —→ measures design to tackle specific types of pollution: air pollution (in 70s), water (in 70s), etc.;
- Due to the complexities of environment and the interaction between different processes, the need to have an integrated approach was identified;
- "Better regulation" strategy – updating and simplifying the Community acquis

## Legal status (1)



- **Environmental Action Plans:**
  - they are addressed to EU;
  - they are not legally binding;
  - they help the development of legal requirements.

—→ Consequently, these programmes led to the adoption of a "*corpus juris*", including more than 300 pieces of legislation.
- **Thematic strategies:**
  - they are a modernisation of EU environment policy-making, taking a broader, strategic approach;
  - they build on the existing EU legal/regulatory framework and include new knowledge on threats to human health and the environment;
  - they focus on an integrated approach (the effects of decisions in one policy area which has consequences on the others) and on implementation issues.

## Legal status (2)



- they are addressed to EU;
- they are not legally binding;
- they help the development of legal requirements.
- **Sector framework directives:**
  - they are legally binding → EU secondary legislation
- **Specific plans/programmes:**
  - if they are required by secondary legislation, they are legally binding, e.g. river basin management plan, waste management plan, waste prevention programmes.

## How do they influence the national ones?



- **Sector Framework Directives:**
  - they need to be transposed and implemented into national legislation;
  - to take into consideration the jurisprudence of ECJ
- **Specific plans/programmes:**
  1. If they are required by secondary legislation → it usually contains 2 types of obligations:
    - substantive: e.g. what they shall contain
    - procedural: e.g. how and when to involve different stakeholders.
    - The secondary legislation usually contains also "may" provisions.
  2. If they are only recommended → MS/candidate states have the freedom of decision-making.

**Due to the close links, attention should be pay to the relationship between different plans/programmes.**

## Ex. Waste Management Plan



- **Dir.2008/98/ on waste** → **art.28 "waste management plans"** contains:
  - "shall" provisions (e.g.):
    - cover the entire geographical territory;
    - an analysis of the current waste management situation;
    - measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste;
    - the type, quantity and source of waste generated within the territory, etc.
  - "may" provisions:
    - organizational aspects related to waste management;
    - an evaluation of the usefulness and suitability of the use of economic and other instruments in tackling various waste problems;
    - the use of awareness campaigns, etc.

## Waste Prevention Programmes



- **Dir.2008/98/ on waste** → **art.29 "waste prevention programmes"** contains:
  - "shall" provisions (e.g.):
    - waste prevention objectives;
    - existing prevention measures ;
    - specific qualitative or quantitative benchmarks, etc.
  - "may" provisions:
    - determine specific qualitative or quantitative targets and indicators.

The programmes shall:

  - either be integrated into waste management plans/other env. policy programmes → waste prevention measures must be clearly identified
  - separate programmes

## National Waste Management Strategy

- Dir. 2008/98/EC on waste does not require the development of a Waste Management Strategy

- **Handbook on the implementation of EC environment legislation:**

” However, in order to be consistent and cost-effective, a waste management plan of any kind (e.g. national, regional or local) needs to be based on a strategy for managing waste and must be implemented effectively. Thus, in practice, a waste management plan as required by EC legislation should consist of two principal components — a strategy for managing wastes (an overall framework or “blueprint” that stipulates what actions will be taken and by when); and a plan for implementing the strategy (containing details of how these actions will be undertaken and by whom). Although the two components may be produced as a single document, it is usually advisable to keep them separate because each will need to be communicated to different audiences or target groups. In any event, strategy development must, by definition, precede the preparation of an implementation plan.”

## National Waste Management Strategy

- **Concluding:**

- there is no legal obligation for MS/candidate states to develop a waste management strategy;
- it is advisable to develop such a strategy in order to facilitate the implementation of directive's provisions.

➡ MS/candidate states have the freedom of decision-making regarding the strategy, i.e. they have the possibility to decide if they want to develop or not such a strategy.

## Ex. National Strategy for the reduction of biodegradable waste going to landfill



- **Dir.1999/31/ on th landfill of waste** → **art.5 "waste and treatment not acceptable in landfills"** contains:
  - "shall" provisions:
    - targets and deadlines for biodegradable municipal waste going to landfills: 75% no later than 5 years (...), 50% no later than 8 years (...), 35% no later than 15 years (...);
    - measures to achieve the targets by means of, in particular, recycling, composting, biogas production and materials/energy recovery.
  - "may" provisions:
    - postpone the attainment of the targets for a period not exceeding 4 years;

## National biodegradable waste strategy & National waste management plan/strategy



- **Dir.2008/98/EC** → **art.28(5)** says "Waste management plans **shall conform to** (...) the strategy for implementation of the reduction of biodegradable waste going to landfills, referred to in art.5 of Dir.1999/31/EC."
- ***Handbook on the implementation of EC environment legislation:***  
 "The national waste management strategy **should be revised** to take account of the new installations required as a result of the directive (n.b. landfill dir.). These would include both landfills and other facilities needed to accept wastes that may no longer be landfilled, such as recycling and composting facilities."

## National biodegradable waste strategy & National waste management plan/strategy



- **Concluding:**

- MS/candidate countries have the obligation to correlate the waste management plan with the national biodegradable waste strategy;
- MS/candidate countries are urged/advised to correlate the waste management strategy with the biodegradable waste strategy

→ planning documents in waste sector are interlinked and must be correlated in order to have logical and flexible approach that facilitates the implementation of different requirements within the sector.

## Ex. Programme for monitoring (WFD)



- **Dir.2000/60/EC → art.8 provides for the obligation of MS to establish programmes for the monitoring of water status** in order to establish a coherent and comprehensive overview of water status within each river basin district.

- "shall" provisions:
  - surface waters;
  - groundwaters;
  - protected areas.

## Ex. Programme of measures (WFD)



- Dir.2000/60/EC → art.11 "programme of measures" contains the obligation for MS/candidate countries to establish a programme of measures for each river basin district.
  - "shall" provisions:
    - "basic" measures;
    - "supplementary" measures, where necessary.
  - "may" provisions:
    - further supplementary measures in order to provide for additional protection or improvement of waters.

**NB! The programme of measures is part of the river basin management plan (see Annex VII, point 7). See also art.4.**

## Ex. River basin management plans



- Dir.2000/60/EC → art.13 "river basin management plans" contains:
  - "shall" provisions":
    - information detailed in Annex VII
    - be published;
    - be reviewed and updated
  - "may provisions":
    - be supplemented by the production of more detailed programmes and management plans for sub-basin, sector, issue or water type, to deal with particular aspects of water management.

**NB! MS shall report in the river basin management plans on the planned steps towards implementing the principle of recovery of costs of water services, including environmental and resource costs (art.9(2))**

## Ex. UWWTD (Dir.91/271/EC)



- **Action programme:**
  - **art.8** provides for a possible delay of implementing art.4 on secondary treatment of urban waste water entering the collecting system → the request addressed to COM must include an action programme with an appropriate timetable to be undertaken to implement the objective of this Directive;
- **Implementation programme of this directive:**
  - **art.17** provides for the obligation of MS to establish a programme for implementation. MS should send information about the programmes to COM. Commission Decision 93/481/EEC provides the information that this report should contain and the format in which it should be supplied.

**NB! The timetable for action programme mentioned above must be included in the implementation programme (art.8 (2) last sentence).**

## "The combined approach" (WFD-art.10 + 11)



- **Art.10** contains the obligation of MS to ensure the establishment and/or implementation of specific legislation (e.g. IPPC, UWWTD, Nitrates, etc) at the latest 12 years after the date of entry into force of WFD, unless otherwise specified in the legislation concerned.
- **Art.11(3)** mentions as a "basic measure" for the programme of measures those actions required to implement EU legislation for protection of water, including measures required under legislation specified in art.10 and in part A of Annex VI.
- **Art.11(6)** provides for the obligation of MS to take all appropriate steps not to increase pollution of marine waters when implementing measures pursuant to par.3.

## Plans/programmes in water sector



- **Concluding:**

- MS/candidate countries have the obligation to correlate and corroborate different plans/programmes that are required by specific water legislation;

→ planning documents in water sector are interlinked and must be correlated in order to have logical and flexible approach that facilitates the implementation of different requirements within the sector.

## National Emission Reduction Plan



- **Dir.2001/80/EC on LCP** → **art.4(6)** provides for **the possibility** for MS, without prejudice to this Directive and Directive 96/61/EC, and taking into consideration the costs and benefits as well as their obligations under Directive 2001/81/EC (n.b. NEC) and Directive 96/62/EC (n.b. Air quality), to define and implement a national emission reduction plan for existing plants, taking into account, *inter alia*, compliance with the ceilings as set out in Annexes I and II. ("**may**" provision)

If the MS apply this possibility, there are "shall" provisions.

**NB!! LCP Dir. will be repealed by IED as of 01.01.2016**

## Ex. IED (Dir.2010/75/EC)



- **Environmental inspection plan:**

- **art.23** provides for the obligation of MS to set up a system of environmental inspections of installations and to ensure that all installations are covered by an environmental inspection plan at national, regional or local level. It includes "shall provisions".

**Based on these plans, CA must draw up programmes for routine environmental inspections, including the frequency of site visits for different types of installations.**

- **Transitional National Plan:**

- **art.32** provides for the possibility for MS ("**may**" provision") to draw up and implement such a plan covering combustion plants which were granted the first permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003.  
If the plan is developed, there are "shall" provisions.

## Ex. NEC (Dir.2001/81/EC)



- **Programme for the progressive reduction of national emissions of pollutants:**

- **art.6** provides the obligation of MS to draw up programmes for the progressive reduction of national emissions of the pollutants referred to in Article 4 with the aim of complying at least with the national emission ceilings.  
It contains "shall" provisions.

## Non-exhaustive list of plans/programmes (1)



No.	Sector/Directive/Regulation/Other	Planning document	Art.
<b>AIR QUALITY</b>			
1. 2008/50/EC AAQ	Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe	Air quality plan – if appropriate Air quality plan – in specific cases Short-term action plans	Art.17(2) Art.21 – 23 & 25 Art.24&25
2. 2001/81/EC NEC	Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants amended by Directive 2006/105/EC and Regulation (EC) 219/2009	Programme for the progressive reduction of national emissions of pollutants	Art.6
<b>WASTE MANAGEMENT</b>			
3. 2008/98/EC Waste Framework	Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste (in force as of 12 December 2010)	Waste management plans Waste prevention programmes	Art.28 & 31-33 Art.29 & 31-33
4. 94/62/EC Packaging	European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste as amended by Regulations (EC) 1882/2003 and (EC) 219/2009 and Directives 2004/12/EC and 2005/20/EC	Specific chapter inside Waste Management plans National programme ("may")	Art.14 & 13 Art.4
5. 96/59/EC PCB/PCT	Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) as amended by Regulation (EC) 596/2009	Plans for the decontamination and/or disposal of inventoried equipment and the PCBs contained therein Outlines for the collection and subsequent disposal of equipment which is not subject to inventory	Art.11 Art.11

## Non-exhaustive list of plans/programmes (2)



6. EC/850/2004 POPs	Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC and Regulations (EC) 1195/2006, (EC) 172/2007, (EC) 323/2007, (EC) 219/2009 and (EC) 304/2009	Action plan on measures Implementation plans Programme for monitoring data	Art.6 Art.8 Art.9
7. 1999/31/EC Landfill	Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste as amended by Regulations (EC) 1882/2003 and (EC) 1137/2008 Council Decision of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to the Directive 1999/31/EC	National strategy for the implementation of the reduction of biodegradable waste going to landfills	Art.5
<b>WATER QUALITY</b>			
8. 2000/60/EC Water Framework	Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy as amended by Decision 2455/2001/EC and Directives 2008/32/EC, 2008/105/EC and 2009/31/EC	River basin management plans Programme of measures (inside river basin management plan) Programme for monitoring the water status	Art.13 & 14 Art.4 & 11 Art.8
9. 91/271/EEC UWWT	Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment as amended by Directive 98/15/EC and Regulation (EC) 1882/2003 and Regulation (EC) 1137/2008 Commission Decision 93/481/EEC concerning formats for the presentation of national programs as foreseen by Article 17 of Council Directive 91/271/EEC (UWWT Directive)	Action programme Programme for the implementation of directive	Art.8 Art.17
10. 2008/56/EC Marine Strategy	Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive)	Marine strategy Programme of measures Monitoring programme	Art.5 Art.5 & 13 Art.5 & 11

## Non-exhaustive list of plans/programmes(3)



11.	98/83/EC <b>Drinking Water</b>	Council Directive 98/83/EC of 3 November 1998 on the <b>quality of water intended for human consumption</b> as amended by Regulations (EC) 1882/2003 and (EC) 596/2009 Commission Decision 95/337/EC concerning questionnaires relating to directive in the water sector	Monitoring programme (CA)	Art.7
12.	91/676/EEC <b>Nitrates</b>	Council Directive 91/676/EEC of 12 December 1991 <b>concerning the protection of waters against pollution caused by nitrates from agricultural sources</b> as amended by Regulations (EC) 1882/2003 and (EC) 1137/2008	Action programmes Monitoring programmes	Art.3 & 5 Art.5
13.	2007/60/EC <b>Floods</b>	Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the <b>assessment and management of flood risks</b>	Flood risk management plans	Art.7 & 8
<b>INDUSTRIAL POLLUTION CONTROL</b>				
14.	2010/75/EU <b>IED</b>	Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on <b>industrial emissions (integrated pollution prevention and control)</b> (Recast – transposition deadline 7 January 2013)	Environmental inspection plan Transitional National Plan ("may")	Art.23 Art.32
15.	2001/80/EC <b>LCP</b>	Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the <b>limitation of emissions of certain pollutants into the air from large combustion plants</b> as amended by Directives 2006/105/EC and 2009/31/EC (to be repealed as of 01.01.2016 by Directive 2010/75/EU)	National Emission Reduction Plan ("may")	Art.4
16.	1999/13/EC <b>VOC solvents</b>	Council Directive 1999/13/EC of 11 March 1999 on the <b>limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations</b> as amended by Regulation (EC) 1882/2003 and Directives 2004/42/EC and 2008/112/EC (to be repealed as of 07.01.2014 by Directive 2010/75/EU)	National plans ("may")	Art.6

## Non-exhaustive list of plans/programmes (4)



17.	EC/850/2004 <b>POPs</b>	Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on <b>persistent organic pollutants</b> and amending Directive 79/117/EEC and Regulations (EC) 1195/2006, (EC) 172/2007, (EC) 323/2007, (EC) 219/2009 and (EC) 304/2009	Action plan on measures Implementation plan Monitoring programme	Art.6 Art.8 Art.9
<b>NOISE</b>				
18.	2002/49/EC <b>Environmental Noise</b>	Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the <b>assessment and management of environmental noise</b> as amended by Regulation (EC) 1137/2008	Action plans ("where relevant")	Art.1 & 4 & 8

