

12.06.2023

**Short statement**  
**to**  
**Commission draft COM 2022/540**

Two directive packages are currently being discussed in the European Parliament (EP) which, if adopted in this version, will be of considerable importance for water management in Germany. These are the amendment of the Urban Wastewater Directive (UWWTD) [COM 2022/548] (statement of the Bundesrat BR-Drs. 15/23) and the **amendment of the Water Framework Directive (WFD) and its daughter directives on priority substances and groundwater [COM 2022/540]**. On 12.05.2023, the Bundesrat issued a partly negative opinion (BR-Drs. 14/23 (resolution)).

The amendment of the WFD and its daughter directives, which is surprising in its scope, leads to fundamental changes in these directives. DWA sees a need for discussion on the following points in particular:

- DWA welcomes in principle the Commission's goal of adapting the Water Framework Directive (2000/60/EC) and the two "daughter directives", the Groundwater Directive (2006/118/EC) and the Directive on Environmental Quality Standards (2008/105/EC) to the current water management challenges, which are also influenced by climate change. However, DWA is critical of the fact that the present drafts lack proposals on how the management objectives set in the Water Framework Directive for 2027 can be efficiently and realistically achieved by water management and administrations in the Member States. This requires a further development of the Water Framework Directive, for example through additional management cycles for the extension of the achievement of "good status".
- It is also incomprehensible why the Commission wants to shift the "phasing-out" obligation to the Member States. Art. 16 para. 6 WFD previously provided that the Commission should submit proposals for phasing-out, but this has not happened in the past 20 years. The water industry may expect the Commission to first fulfil its obligations under the WFD.

- Coherence of the draft with the draft revision of the UWWTD must be established. In view of the significantly increasing energy requirements and also the high investment and operating costs due to the construction of fourth treatment stages, these should not be retrofitted across the board, but within the framework of a risk-based approach. The UWWTD draft also provides for this in principle, in that in addition to larger plants, plants in sensitive areas are also to be equipped with fourth treatment stages in certain periods. However, the new environmental quality objective for the parameter diclofenac provided for in the draft directive on priority substances could now lead to a fourth treatment stage at wastewater treatment plants almost everywhere. With a concentration of 0.04yg/l in the water body into which a wastewater treatment plant discharges, this quality target is so strict that it can only be met with a 4th treatment stage. Thus, the amendment of the Water Framework Directive is significantly stricter than envisaged in the draft of the Urban Wastewater Directive. In addition, the UWWTD requirement for wastewater treatment plants larger than 10,000 E to achieve energy neutrality within certain deadlines will hardly be achievable for smaller plants with 4th treatment stages.
- The Commission draft provides for a significant methodological shift within the assessment of the management objectives for the so-called river basin specific pollutants. The EQS for river basin-specific pollutants have so far only served to support the assessment of ecological water status or potential. Therefore, the decisive factor with regard to any exceedances has so far been whether they can have an impact on the biocoenosis of the water body. In future, the river basin-specific pollutants are to be used to assess the chemical water status. This means, among other things, that any exceedance of the EQS, especially in combination with the "one-out-all-out" approach, will lead to a failure to achieve the chemical status target. First of all, this has implications for the inventory and designation of water bodies. Thus, the previous classifications of water status - both ecological and chemical status - will no longer be comparable with the future assessments. Moreover, the amendment also has a direct impact on the assessment of the prohibition of deterioration and the requirements in the context of authorisation procedures (the granting and renewal of permits). It is to be expected that the effort for all parties involved (companies, municipalities, authorities) and in relation to all authorisation decisions will increase significantly and that the procedures will also be exposed to an increased risk of legal action. The required personnel is not available

either at the companies or at the authorities.

- In addition, some of the proposed concentration values are below the detection limit (e.g. bifenthrin and deltamethrin). Valid statements on whether concentration values can be complied with accordingly are therefore not possible with measurement methods based on the state of the art. There is therefore a lack of sensitive analytical methods. For a comprehensive data situation, these would have to be established by the competent authorities and agencies within the framework of the measurement programmes for the implementation of the WFD. Overall, this is associated with a great deal of effort. This considerable consequence was not considered in the Commission's impact assessment, but was considered by the Bundesrat in its aforementioned resolution.
- Since the EU Member States themselves decide whether and which river basin-related substances they apply, water bodies with comparable substance concentrations would have different chemical status classifications depending on whether a Member State considers a substance relevant and regulates it or not. This can lead to distortions of competition in the European internal market due to the different standards in Member States when applying the principle of non-deterioration. In addition, the EU Commission wants to set further, new substance concentrations.
- The river basin-specific pollutants are further upgraded and tightened by the obligation directed at the Member States to provide for measures to reduce and phase out these substances. At the same time, the Commission is empowered to set river basin-specific pollutants uniformly, even if they are only relevant in parts of the EU.
- As a result, the Commission proposal leads to a fundamental systematic change in the assessment criteria and at the same time to a considerable expansion of the substance canon of chemical status. Nevertheless, the Commission's draft lacks a sufficient impact assessment and also does not provide for transitional regulations that outline the necessary transition in terms of content and time from the previously applicable to the proposed assessment system. Both aspects must be worked on in the legislative process.

- Another critical aspect is that the European Commission can change the substances relevant for the classification of the status of surface waters and groundwater and the environmental quality objectives applicable to them at any time by means of "delegated acts" in the comitology procedure and thus outside an ordinary co-decision procedure involving the European Parliament and the Council. Due to the general prohibition of deterioration, the determination of relevant substances and environmental quality objectives have fundamental restrictive effects on the approval of projects under water law. In addition, the establishment of environmental quality standards for micropollutants (e.g. diclophenac) directly requires the technical upgrading of wastewater treatment plants ("fourth treatment stage") with considerable additional technological and financial expenditure in the Member States. Thus, corresponding provisions in the WFD and the daughter directives are of essential importance in the field of EU water law. However, according to Art. 290 (1) TFEU, a delegation of power to the Commission to adopt "delegated acts" can only be made to amend non-essential provisions and is therefore excluded here.

The DWA therefore demands:

- Coherence must be established between the regulations of the EU Urban Wastewater Directive and the regulations of the Water Framework Directive, the Environmental Quality Standards Directive and the Groundwater Directive. To this end, the parallel drafts must be better coordinated, especially in the crucial points such as the cost-intensive retrofitting of wastewater treatment plants with additional purification processes.
- The Commission's impact assessment presented so far must be revised as a whole, taking into account the points of view outlined above. In doing so, the practical challenges of implementation in the Member States must be set out in detail and quantified in terms of their cost and effort, over and above the merely general assertion that the advantages of the Commission's draft for the environment and health outweigh the disadvantages. The practical challenges of implementation in the Member States must be explained in detail, their costs quantified and included in the impact assessment.
- Insofar as the Commission's draft is to be pursued in some of its key amendment proposals (system change for river basin-specific pollutants, requirements below

today's analytical detection limits, requirements for micropollutants), it is imperative to include sufficient transitional provisions in terms of content and time.

- In an amendment to the Water Framework Directive, the EU Commission must also present a solution to the problem of the WFD targets that, according to all expert statements, cannot be achieved by 2027, e.g. with the explicit inclusion of further management cycles.

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