EP Resolution on Implementation of the EU Water Legislation

Eurelectric amendments

June 2020

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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WG Hydro
WG Environmental Protection

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Introduction

Eurelectric, the European association of the electricity industry, is a very committed stakeholder, contributing to the success of the Water Framework Directive (WFD) on various levels, i.e. by highlighting the power sector's experience and recommendations as well as by providing our continuous input to several work streams under the WFD - Common Implementation Strategy.

All European power installations and projects, small and large, are subject to strict environmental legislation to ensure their sustainability. The WFD is a central piece in this regard, having far-reaching consequences for the permitting, operation and maintenance of power plants, such as hydropower generation making use of the kinetic and potential energy of water.

Eurelectric's core priority is to achieve a carbon-neutral electricity mix in Europe by 2045. We are convinced that energy efficiency and electrification are key to mitigating climate change and meeting the Paris Agreement objectives. In the future decarbonised power system, renewable hydropower will be crucial to integrate variable renewables by providing storage, flexibility and all necessary system services essential for security of supply and stable grid operation. In addition to its valuable CO_2-free electricity generation, hydropower also plays an important role in terms of water management, flood protection and in the prevention of water scarcity. In this context, it has to be highlighted that by implementing environmental measures to reach the objectives of the WFD, the generation and flexibility of hydropower have already been reduced. For instance, requirements for ecological flows, ecological continuum, minimum flows, turbine stops to facilitate fish migration (as in case of eel passage) go hand in hand with a reduction in renewable generation as well as flexibility losses.

In December 2019, the outcome of the Fitness Check of the EU Water Acquis was published, stating that the WFD is fit for purpose with some scope to improve. Since power plants have very long planning horizons as well as lifetimes and due to the fact that the third and last cycle of River Basins Management Plans ends in 2027 (Norway and Iceland are respectively one and two cycles behind), we should start soon to think of a time extension of the WFD or of the future of the framework for the post-2027 period. For any follow-up, it is of the utmost importance that renewable energy and climate targets will be integrated within the WFD, which is so far not the case. A holistic approach and an enhanced strategic coordination of European environmental, energy and climate policies is needed to balance ecological, social as well as economic aspects and to promote a sustainable use of water.

In this context, **we would like to propose the following amendments to the draft motion for a European Parliament Resolution (2020/2631(RSP)) on Implementation of the EU Water Legislation**:

Amendment Proposals

Text proposed by EP	*Amendment proposal by Eurelectric*
Amendment 1	
Note B	
B. whereas the Water Framework Directive established a framework to protect 110.000 surface water bodies in the EU, aiming to achieve 'good ecological status and good chemical status' by 2015; whereas the Fitness Check found important shortcomings in the implementation of EU water legislation, unlikely to be achieved by the 2027 deadline;	B. whereas the Water Framework Directive established a framework to protect 110.000 surface water bodies in the EU, aiming to achieve 'good ecological status **or potential** and good chemical status' by 2015; whereas the Fitness Check found important shortcomings in the implementation of EU water legislation, unlikely to be achieved by the 2027 deadline;

Justification

- *Environmental objectives of the EU Water Framework Directive (WFD) for all European surface waters are the good chemical and good ecological status (for natural water bodies), or the good ecological potential (for Heavily Modified Water Bodies, HMWBs, and Artificial Water Bodies, AWBs). Article 4(3) of the WFD allows Member States to identify and to designate surface water bodies which have been physically altered by human activity as "heavily modified" under specific circumstances.*
- *The WFD defines HMWBs as a separate surface water category, beside other categories such as rivers, lakes, transitional waters and coastal waters. The reason for introducing the category of HMWBs to the WFD was that human development (the so-called "specific uses", including hydropower generation, inland navigation, irrigation, flood protection, the overall utilization of near-water spaces, etc.) has substantially changed the character of many water bodies throughout Europe over decades, even centuries. In these water bodies, it is not possible to aim for the same kind of biology as in natural water bodies, hence, a definition of separate objectives is necessary. Every HMWB is in this way its own type and reference conditions shall be assessed case by case.*

Text proposed by EP	*Amendment proposal by Eurelectric*

Amendment 2

Note L

L. whereas there are currently over 21.000 hydropower plants in Europe; whereas no comprehensive EU action has taken place for dam removal	~~L. whereas there are currently over 21.000 hydropower plants in Europe; whereas no comprehensive EU action has taken place for dam removal~~

Justification

We propose to delete the whole amendment as:

- *Dam or barrier removal has not been a target of any EU legislation so far, and has been brought up for the first time in the new Biodiversity Strategy to 2030 (target of 25,000 km of free flowing rivers by 2030).*
- *Dam removal is not automatically an effective measure to improve the ecological status of rivers. The choice of the right measure to achieve a good ecological status or potential must be based on the local conditions, target species, etc.*
- *European rivers are definitely not saturated by hydropower. Of course, there are river stretches with a high hydropower density but at the same time also numerous rivers without a single hydropower asset exist. The EU legislation already in place assures a sustainable use of the European rivers, considering a balanced approach between water protection and ecosystem services, energy generation, social aspects etc. The WFD itself, CIS Guidance Documents, and approved methodologies contain criteria and processes needed to identify the most suitable measures for any given setting in an objective manner.*
- *Greater efforts are needed to restore water ecosystems, however, the focus should be on removing barriers without specific function. Hydropower only accounts for a small share of existing barriers, the majority are barriers without any function or are no longer in use.*
- *All dams being used twofold, for renewable hydropower generation as well as providing other crucial benefits to society (i.e. flood protection, drought mitigation, drinking water, irrigation, recreation, etc.) should not be questioned at all. Due to climate change, multi-purpose uses of reservoirs will become even more important.*
- *Moreover, hydropower assets are not always located at river stretches. Hydropower is not one single technology but always fitted to the specific locations and water bodies: (Pumped) storage can even be built as closed-loop systems, not interfering with stream habitats; floating hydro turbines or matrix turbines do not even need a dam.*
- *Hydropower operators are effective in implementing and maintaining sufficient flow for river ecology as well as for other uses of the river and in continuous cleaning of water bodies by removing driftwood as well as drift garbage.*
- *In addition, various studies suggest that there is still significant environmentally feasible hydropower potential left:*
    - *The latest publications and data (Hydropower & Dams World Atlas, 2017) clearly show that there is not only a gross theoretical hydropower potential but also a considerable economically feasible hydropower potential in Europe – mainly in Norway, Sweden, France, Austria, Italy and in the Balkans. The technically*

feasible hydropower potential in the EU-28 (658 TWh/a) plus Norway, Switzerland and Iceland equals to about 1000 TWh/a, a number as high as the sum of Germany's and the UK's total gross electricity generation in 2017. Subtracting the already realised potential (around 560 TWH/a) from the technically feasible hydropower potential (1000 TWh/a), it becomes obvious that there is still a significant hydropower potential left in Europe.

- *High pumped storage potential remains unused in Europe (JRC study),* link
- *Pumped storage can theoretically be built anywhere where the necessary height differences are available. It can be built e.g. on/in mountains, fjords, etc., on islands (using the sea as lower reservoir, e.g. Ikaria, El Hierro), next to river systems with steep banks (river as lower basin), in areas where the land surface is below the sea level (sea as upper reservoir), within old mines (closed water cycle), and by connecting or expanding existing storage power plants to new pumped storage facilities. Pumped storage assets can even be built in areas without natural water inflows: two artificial reservoirs can be filled with water once, whereas this water is turbined and pumped continuously between the two reservoirs.*
- *Even in countries with a high share of hydropower, there is still potential left: In Austria, there is still an economically as well as environmentally feasible hydropower potential of 11 TWh left (including retrofitting/upgrading of existing plants as well as greenfield projects). (Pöyry Austria GmbH, 2018)*

Text proposed by EP	*Amendment proposal by Eurelectric*
Amendment 3	
Point 2	
2. Welcomes the assessment of the Commission that the WFD is fit for purpose, yet its implementation needs to be improved and speeded up;	2. Welcomes the assessment of the Commission that the WFD is fit for purpose **with some scope to improve,** yet its implementation needs to be improved and speeded up;

Justification

- *The outcome of the Fitness Check is that EU water legislation is fit for purpose with some scope to improve. Follow-up actions have not been determined so far, i.e. currently neither a revision nor a recast has been excluded.*
- *Due to the long planning horizons of energy infastructure, we should start soon to think of the post-2027 period. For any follow-up, it is of the utmost importance that renewable energy and climate targets will be integrated within the WFD, which is so far not the case. A holistic approach of European environmental, energy and climate policies is needed to balance ecological, social and economic aspects and promote a sustainable use of water.*

Text proposed by EP	*Amendment proposal by Eurelectric*
Amendment 4	
Point 3	
3. Regrets that the objectives of the WFD still are not reached mainly due to inadequate funding, particularly slow implementation, insufficient enforcement and broad use of the exemptions of the Directive, that integration of environmental objectives in sectoral policies have been insufficient, and that half of the EU`s water bodies are still not in a good status;	3. Regrets that the objectives of the WFD still are not reached mainly due to inadequate funding, particularly slow implementation, insufficient enforcement and broad **but necessary** use of the exemptions of the Directive, that integration of environmental objectives in sectoral policies have been insufficient, and that half of the EU`s water bodies are still not in a good status **or potential;**

Justification

- *Exemptions are a vital part of the WFD's instrument mix for implementation. Their justified use should not be reduced, however, a transparent and streamlined process is welcomed.*
- *Justified exemptions are a necessary part of the WFD implementation due to conflicting interests of water use, i.e. exemptions are a key mechanism to ensure a sustainable water use by taking into account important socio-economic aspects. It is not possible to reach a good ecological status or potential everywhere and at the same time to protect from floods, to provide flexible and renewable hydropower as well as to secure fresh water supply during droughts.*
- *Environmental objectives of the WFD for all European surface waters are the good chemical and good ecological status (for natural water bodies), or the good ecological potential (for Heavily Modified Water Bodies, HMWBs and Artificial Water Bodies, AWBs). Article 4(3) of the WFD allows Member States to identify and to designate surface water bodies which have been physically altered by human activity as "heavily modified" under specific circumstances (Please also see the justification for amendment 1).*

Text proposed by EP	*Amendment proposal by Eurelectric*
Amendment 5	
Point 6	
6. Notes that the "one-out-all-out"-principle should remain intact, yet poses a problem in the communication on progress made with regards to single parameters; calls for complementary reporting methodologies (such as distance to target); recalls the first	6. Notes that the "one-out-all-out"-principle ~~should remain intact, yet poses a problem in~~ **as well as the non-deterioration principle** should **be applied differently to overcome problems related to permitting processes of industrial activities as well as** the

successful European Citizen`s Initiative on 'Right2Water'; highlights the importance of transparency and provision of comprehensive information to the public on the quality of water in the EU;	communication on progress made with regards to single parameters; calls for complementary reporting methodologies (such as distance to target); recalls the first successful European Citizen`s Initiative on 'Right2Water'; highlights the importance of transparency and provision of comprehensive information to the public on the quality of water in the EU;

Justification

- *The "one out all out" principle is problematic not only from a communication perspective, but also in terms of substance (very high bar / level of ambition). The principle does not reflect the actual state of the water, or the progress made in the water bodies.*
- *In ECJ ruling (Weser Case, ECJ Case C-461/13), the Court has held that there is a deterioration of the status of a surface water body as soon as the status of at least one of the quality elements falls by one class, even if that fall does not result in a fall in classification of the water body as a whole, or any deterioration if the quality element is already assessed in the lowest class ("bad"). This interpretation has significantly increased the need for exemption requests. We therefore suggest to consider an application of the non-deterioration principle (class deterioration, de-minimis thresholds) in a way which maintains a high level of protection of water bodies but does not apply in cases of non-significant impacts.*

Text proposed by EP	*Amendment proposal by Eurelectric*

Amendment 6

Point 7

7. Deplores the use of exemptions for over half of Europe's water bodies, with limited justification; calls for new guidance documents for the use of exemptions in order to reduce this practice;	7.. **Notes that the objectives of the WFD will probably not be reached by the Member States by 2027 without an extensive use of exemptions;** ~~Deplores the use of exemptions for over half of Europe's water bodies, with limited justification;~~ calls for new guidance documents for the use of exemptions in order to **streamline practices in the Member States;** ~~to reduce this practice;~~

Justification

- *Given the current situation, it is expected that no single Member State will reach the set objectives (good status of all surface waterbodies) by 2027.*

- *A full implementation of all measures and a full effect of these measures by 2027 is utopic as measures can (due to biological processes) have long time lags until resulting improvements in water quality can be detected in monitoring. A recovery of water bodies takes time and the "good status" will not be fully achieved by 2027. Therefore, the next steps of WFD post 2027 should be taken soon.*
- *Since power plants have very long planning horizons as well as lifetimes and due to the fact that the third and last cycle of River Basins Management Plans ends in 2027 (Norway and Iceland are respectively one and two cycles behind), we should start soon to think of a time extension of the WFD or of the future of the framework for the post-2027 period. For any follow-up, it is of the utmost importance that renewable energy and climate targets will be integrated within the WFD, which is so far not the case. A holistic approach of European environmental, energy and climate policies is needed to balance ecological, social and economic aspects and promote a sustainable use of water.*
- *Exemptions are a vital part of the WFD's instrument mix for implementation. Their justified use should not be reduced, however, a transparent and streamlined process is welcomed.*

Text proposed by EP	*Amendment proposal by Eurelectric*
Amendment 7	
Point 10	
10. Notes that hydropower stations provide the largest share of renewable energy in the EU, points out, however, that the construction of dams can negatively affect habitats and that the WFD imposes strict criteria for the protection of hydromorphological conditions; calls for strict assessments of the impacts of resulting alterations to water quality and ecosystems;	10. Notes that hydropower provides the largest share of renewable energy in the EU **as well as storage, flexibility and system services for the integration of variable renewables;** points out, however, that the construction of **new** dams can negatively affect **stream** habitats **and that in this context, the WFD already imposes strict criteria, aiming at an achievement of a good ecological status or potential of water bodies;** ~~for the protection of hydromorphological conditions; calls for strict assessments of the impacts of resulting alterations to water quality and ecosystems;~~

Justification

- *The main focus of the Water Framework Directive are water bodies, not habitats.*
- *The protection of hydromorphological conditions is not a main target of the WFD and should therefore be deleted. The WFD aims to reach a good ecological status or potential of water bodies. The assessment is done via so called biological quality elements (phytoplankton, macrophytes, phytobenthos, benthic invertebrate fauna and fish), whereas hydromorphology only plays a supporting role.*
- *Instead of the reference to water quality, we would like to suggest to refer to environmental objectives of the WFD, the good ecological status or good ecological potential of water bodies.*

Text proposed by EP	*Amendment proposal by Eurelectric*
Amendment 8	
Point 16	
16. Calls on the Commission to take strict and swift action on pursuing infringements of Member States to ensure full compliance of all Member States with the WFD as soon as possible, and no later than 2027; urges the Commission to act on the open infringement cases related to systemic violation of the water legislation;	16. Calls on the Commission to **take soon the next steps to guarantee the effectiveness of the WFD post 2027, whereas it should be made sure that renewable energy and climate targets will be integrated within the water legislation;** ~~strict and swift action on pursuing infringements of Member States to ensure full compliance of all Member States with the WFD as soon as possible, and no later than 2027; urges the Commission to act on the open infringement cases related to systemic violation of the water legislation;~~

Justification

- *Given the current situation, it is expected that no single Member State will achieve the set objectives (good status of all surface waterbodies) by 2027. The European Parliament should not ask for 27 infringement cases but rather trigger discussions on a time extension of the WFD or of the future of the framework for the post-2027 period.*
- *A full implementation of all measures and a full effect of these measures by 2027 is utopic. Implementing measures can (due to biological processes) have long time lags until resulting improvements in water quality can be detected in monitoring. Recovery of the water bodies take time and the "good status" will probably not be fully achieved by 2027. Therefore, and since power plants have very long planning horizons and due to the fact that the last cycle of River Basins Management Plans ends in 2027, we should start soon to think of a time extension of the WFD or of the future of the framework for the post-2027 period. For any follow-up, it is of the utmost importance that renewable energy and climate targets will be integrated within the WFD, which is so far not the case. A holistic approach of European environmental, energy and climate policies is needed to balance ecological, social and economic aspects and promote a sustainable use of water.*

Text proposed by EP	*Amendment proposal by Eurelectric*
Amendment 9	
Point 20	
20. Suggests to address droughts with projects for the reuse of disused quarries, transformed into basins to contain rainwater and flood waves; encourages research and investments in this direction;	20. Suggests to address droughts with projects for the reuse of disused quarries, transformed into basins to contain rainwater and flood waves; encourages research and investments in this direction**, including multipurpose reservoirs for renewable hydropower generation and other uses**;

Justification

- *Many reservoirs are being used in multifold ways, for renewable hydropower generation as well as providing other crucial benefits to society (i.e. flood protection, drought mitigation, drinking water, irrigation, recreation, etc.). Due to climate change, multi-purpose uses of reservoirs will become even more important.*

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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