

Water Framework Directive 2000/60

Art 4 Objectives

Surface waters : prevent deterioration

“good surface water” status by 2015 (ecological and chemical status ‘good’)

Artificial or heavily modified bodies: “good ecological potential and good surface water chemical status” by 2015

Art 4.4 Extension of deadlines

2015 deadlines may be extended for up to two river basin management plan revisions (every six years) ie 2027

Conditions – no further deterioration

- Member State determine that deadline cannot be met due to any or all:

- (i) Technical feasibility
- (ii) Disproportionately expensive
- (iii) Natural conditions

Art 4.4 extension conditions

- Extensions and justifications must be explained in River Basin Management Plans (art 4.4(b))
- Time table for implementation and summary of measures to bring waters progressively to status by extended deadline must be contained in Plans (art 4.4(d))

Art 4.5 Less Stringent Objectives

- MS may establish less stringent environmental objectives for 'specific bodies of water'

- Conditions

Achievement of objectives infeasible or disproportionately expensive due to human activity or natural conditions

AND

environmental/socio-economic needs of human activity cannot be achieved by other means not involving excessive cost AND

Highest ecological/chemical status achieved given impacts that cannot be reasonably avoided AND

No deterioration

Justifications in River Basin Plans and reviewed every 6 years

Non-Breaches of Directive (not strictly exemptions or derogations)

- 4.6 Temporary deterioration of status of water body due to exceptional or unforeseeable natural causes/force majeure
- 4.7 Failure due to new modifications to physical characteristics of water body or result of “new sustainable human development activities”
- Modifications/activities are of overriding public interest and/or benefits to human safety or sustainable development outweigh benefits of Directive’s objectives

Bottom line for both extension and less stringent objectives

- Steps must be taken to ensure that application *“guarantees at least the same level of protection as the existing Community legislation”*
- *“The implementation of this Directive is to achieve a level of protection of waters at least equivalent to that provided in certain earlier acts, which should therefore be repealed once the relevant provisions of this Directive have been fully implemented”*
(Preamble).

Differences between extension of deadlines and less stringent objectives

- Upper time limit for deadline extension (2027). None for less stringent objectives
- Member States determine conditions for extension
Conditions for less stringent objectives in 'objective' language (more intensive legal review of MS decision easier)
- Conditions for less stringent objectives more elaborate

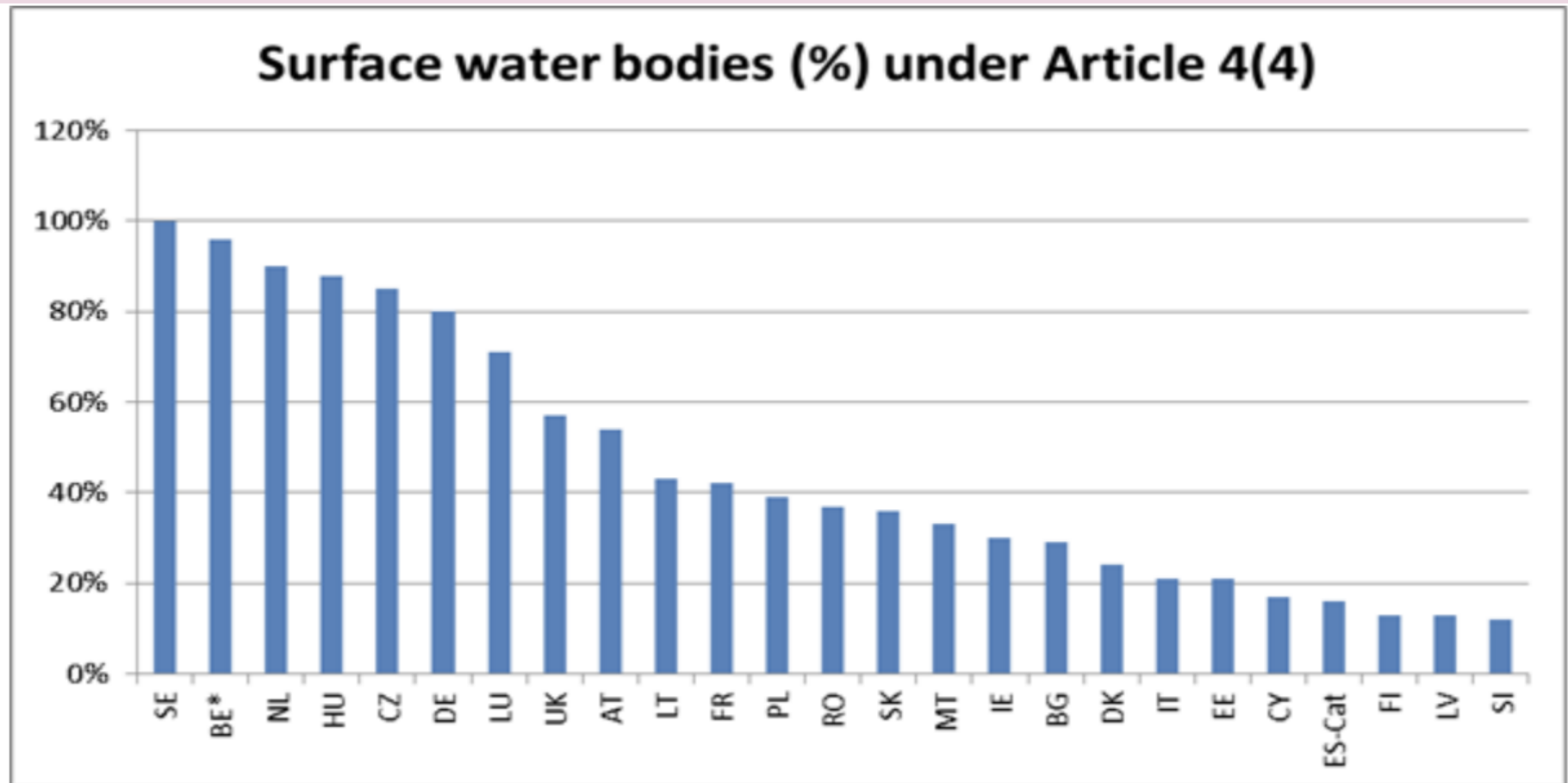
Commission Implementation Report 2012

- 72% of surface water bodies in less than good ecological status and 88% fail to achieve chemical status
- Extension of deadline required for 40% of water bodies
- Less stringent objectives rarer 19% (but vast majority relate to Sweden for mercury pollution)

Commission Implementation Report (2012)

- The extensive use of exemptions may reflect the low level of ambition in many of the plans as regards achieving the environmental objectives.
- In general, there is transparent information about which water bodies are subject to exemptions and the reason for it (technical infeasibility, natural conditions and/or disproportionate costs). However, the interpretation of the different reasons for the application of exemptions has varied significantly across the different Member States.
- There is generally a lack of appropriate and transparent justification of the criteria applied for the use of exemptions under Articles 4(4) to (7).

Art 4.4 extensions (2012 Report – First WMPs)



Commission Implementation Report 2015

- “Instead of designing the most appropriate and cost-effective measures to ensure that their water achieves ‘good status’, thus tackling the persisting performance gap, many Member States have often only estimated how far existing measures will contribute to the achievement of the WFD’s environmental objectives.
- This causes exemptions to be applied too widely and without appropriate justification. In most cases, when exemptions are applied and the achievement of ‘good status’ is postponed, it is not clear whether measures are taken to progress towards the objective, as required by the directive. The WFD’s environmental objectives are quantified and linked to a clear timetable.”