



Application of Directive 2000/60/EC and Article 4.7

12 September 2018, Bratislava

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European Commission, DG Environment

EU Water Framework Directive (WFD)

Scope, objectives and tools

• Scope

- Protection and management of all waters, including rivers, lakes, transitional-, coastal- and groundwater
- Covering all impacts on waters

• Objectives

- Protect and enhance water bodies
- **Achievement of good status / potential**
- **No deterioration**
- **Exemptions under certain conditions**

• Tools


- River Basin Management Plans and Programmes of Measures
- Existing legislation: urban waste water treatment, nitrates from agriculture, habitats, etc.
- Public participation





What is WFD "Good Status"?



Good surface water status

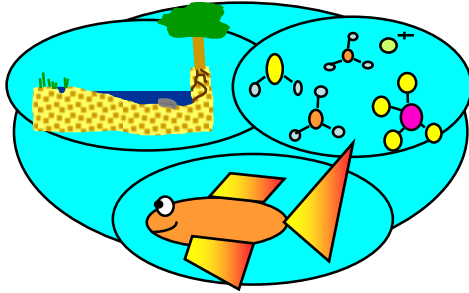
<p>Good ecological status</p>	<p>Is an expression of the quality of the structure and functioning of aquatic ecosystems including: biological, hydromorphological and physico-chemical elements</p>	 <p>High Good Moderate Poor Bad</p>
<p>Good chemical status</p>	<p>Means meeting all environmental quality standards for chemicals set at EU level in Directive 2008/105/EC (priority substances) as amended by Directive 2013/39/EU</p>	 <p>Good Failing to achieve good</p>

Good groundwater status

<p>Good quantitative status</p>	<p>Means ensuring a long-term balance between abstraction and recharge, protecting as well associated surface waters and ecosystems.</p>	 <p>Good Poor</p>
<p>Good chemical status</p>	<p>Means meeting all standards for chemicals, either set at EU level (pesticides and nitrates) or at national level (threshold values)</p>	 <p>Good Poor</p>

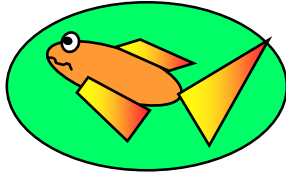
Classes

No or
minimal {



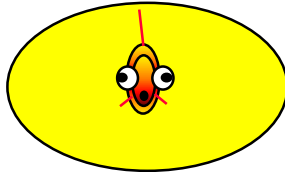
HIGH

Slight {



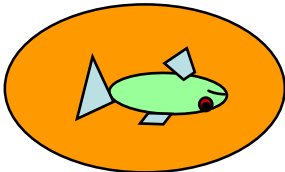
GOOD

Moderate {



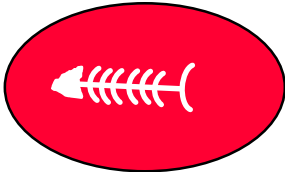
MODERATE

Major {



POOR

Severe {



BAD

Avoiding
deterioration

Non-deterioration



Improving to
"good status"

Examples for modifications which may impact water body status

Embankments



Impoundments
(e.g. hydropower)



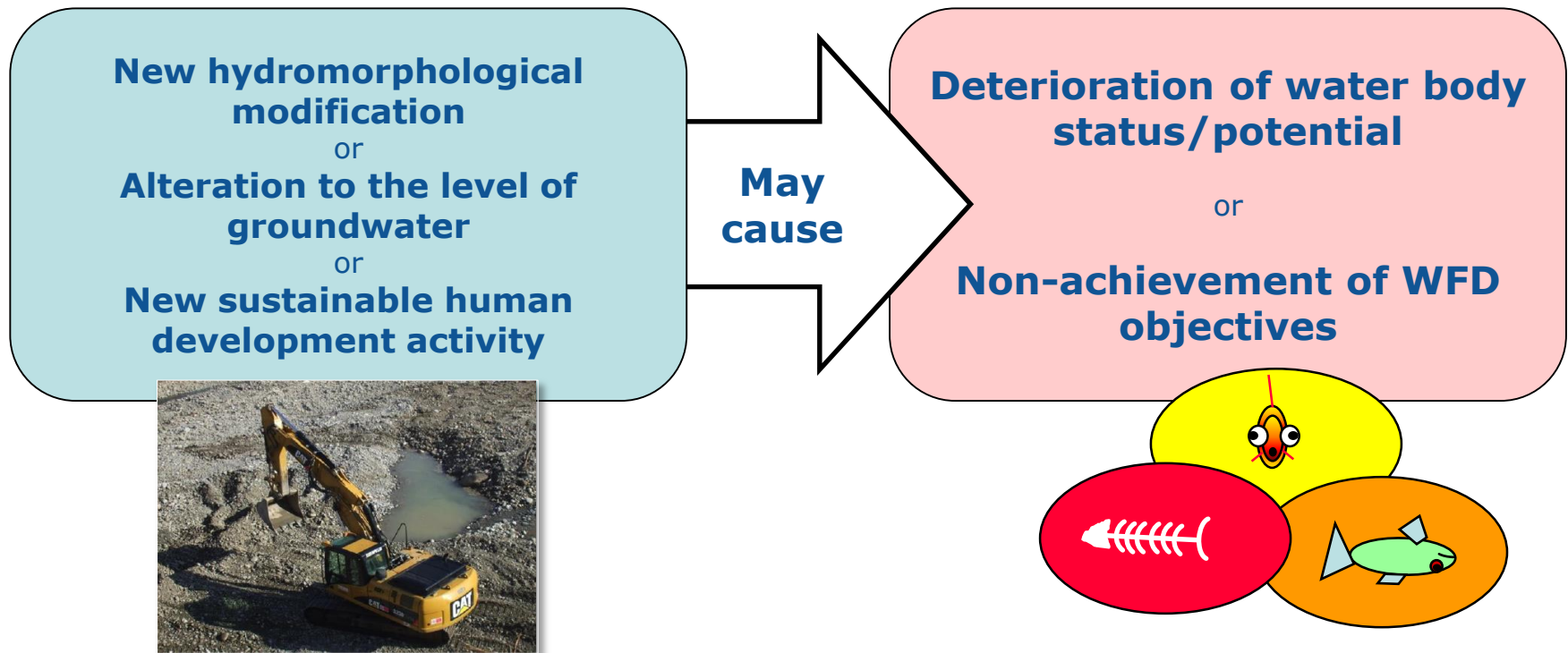
Abstractions
(surface- and groundwater)



Interruption of
sediment transport



New projects may impact WFD water body status



**Project needs to meet conditions of WFD Article 4.7
for authorisation**

**COMMON IMPLEMENTATION STRATEGY FOR
THE WATER FRAMEWORK DIRECTIVE AND
THE FLOODS DIRECTIVE**



Guidance Document No. 36
**Exemptions to the Environmental Objectives
according to Article 4(7)**

New modifications to the physical characteristics of surface water
bodies, alterations to the level of groundwater, or new sustainable
human development activities

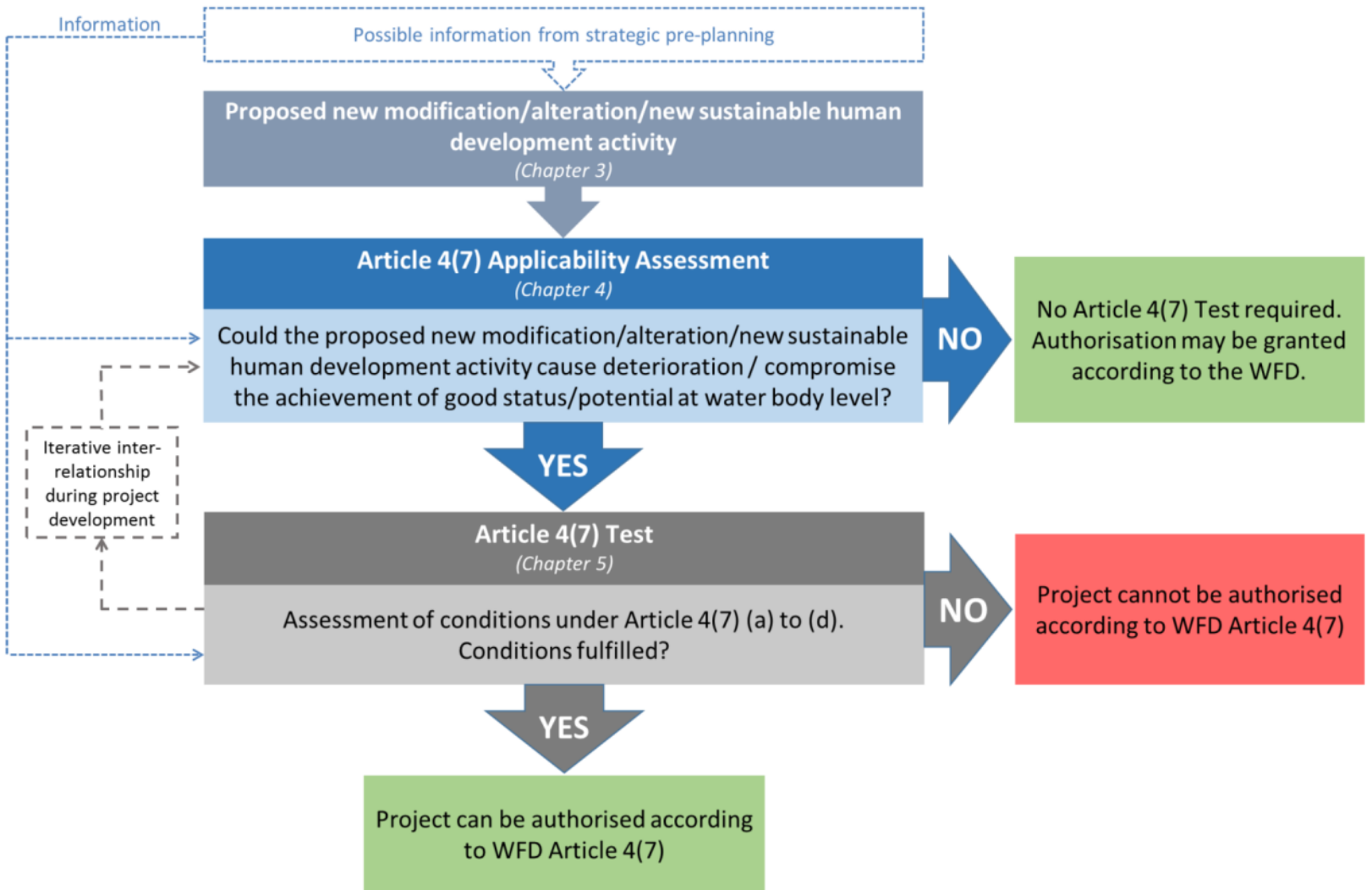
Document endorsed by EU Water Directors at their meeting in Tallinn on 4-5 December 2017

CIS Guidance No. 36 (2017) Exemptions to the Environmental Objectives according to Article 4.7

Available at

https://circabc.europa.eu/sd/a/e0352ec3-9f3b-4d91-bdbb-939185be3e89/CIS_Guidance_Article_4_7_FINAL.PDF

Figure 1: Principle relationship between "Article 4(7) Applicability Assessment" and "Article 4(7) Test"



Surface water body: Example for deterioration

Example 1 – Deterioration of overall status									
Starting point: Overall ecological status determined by quality element in worst condition (in this case moderate).									
Effect due to modification: Overall status may deteriorate due to deterioration of individual quality elements (in this example benthic invertebrate and fish fauna as an effect of deterioration of morphology), therefore triggering an Article 4(7) Test. The example includes in this case a change in overall status of the water body from moderate to poor.									
Quality elements	Biological quality elements			Hydromorphological quality elements supporting the biological elements			Chem. and phys. chem. quality elements supporting the biological elements		Overall ecological status
	Aquatic flora	Benthic invertebrate fauna	Fish fauna	Hydrology	Morphology	Continuity	General conditions	River basin specific pollutants	
Starting point	2	2	3	worse than 2**	2*	worse than 2**	2*	2	3
Effect due to modification	2	3	4	worse than 2**	worse than 2**	worse than 2**	2*	2	4



Surface water body: Example for deterioration

Example 2 – Overall status remains but deterioration of a biological quality element

Starting point: Overall ecological status determined by quality element in worst condition (in this case good).

Effect due to modification: Overall ecological status maintained as good but one biological quality element may deteriorate, in this example fish fauna due to deterioration of the quality elements hydrology and continuity, therefore triggering an Article 4(7) Test.

Quality elements	Biological quality elements			Hydromorphological quality elements supporting the biological elements			Chem. and phys. chem. quality elements supporting the biological elements		Overall ecological status
	Aquatic flora	Benthic invertebrate fauna	Fish fauna	Hydrology	Morphology	Continuity	General conditions	River basin specific pollutants	
Starting point	2	1	1	1	1	1	2*	1	2
Effect due to modification	2	1	2	2*	1	2*	2*	1	2

Relevant at quality element level!

Deterioration

Groundwater body: Example for deterioration

Example 5					
<p>Starting point: Overall groundwater quantitative status is classified as "good" since each criterion meets the conditions for "good".</p> <p>Effect due to modification: Due to the modification one criterion is expected to deteriorate from "good" to "poor" (in this example due to the damage of a groundwater dependent terrestrial ecosystem), as well as the overall quantitative status, therefore triggering an Article 4(7) test.</p>					
	Criteria				Overall quantitative groundwater status
	1) Available groundwater resource is not exceeded by the long term annual average rate of abstraction	2) No significant diminution of surface water chemistry and/or ecology resulting from anthropogenic water level alteration or change in flow conditions that would lead to failure of relevant Article 4 objectives for any associated surface water bodies	3) No significant damage to groundwater dependent terrestrial ecosystems resulting from an anthropogenic water level alteration;	4) No saline or other intrusions resulting from anthropogenically induced sustained changes in flow direction.	
Starting point	G	G	G	G	G
Effect due to modification	G	G	P	G	P

G: Good; P: Poor;

Deterioration

**Conditions to be fulfilled for project
authorisation in case project may
deteriorate water body status**
WFD Article 4.7(a)-(d)

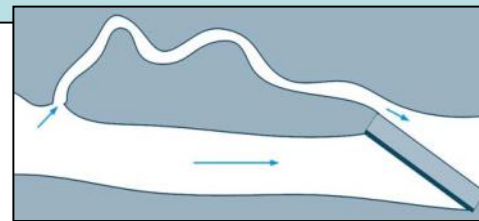
Article 4.7(a)
all practicable steps are taken to **mitigate the adverse impact** on the status of the
body of water

OBJECTIVE

→ Despite deterioration achieve best possible
ecological condition by applying mitigation
measures

Examples:

- Sufficient remaining flow in case of water abstractions
- Fish migration aids at dams
- Natural instead of armoured river banks



Article 4.7(d)

the beneficial objectives served by those modifications or alterations of the water body cannot for reasons of technical feasibility or disproportionate cost be achieved by **other means, which are a significantly better environmental option**

OBJECTIVE

→ **ensure that the best environmental option is chosen to achieve the benefits of the intended project**

Relevant at **strategic level**, e.g.

- Relevance of overall policy context (transport, renewable energy, ...)
- Alternative project locations
- Link to SEA

Relevant at **project level**, e.g.

- Alternatives in the project design with less environmental impacts
- Link to EIA

Article 4.7(c)

*the reasons for those modifications or alterations are of **overriding public interest and/or the benefits** to the environment and to society of **achieving the objectives** set out in paragraph 1 are **outweighed by the benefits of the new modifications** or alterations to human health, to the maintenance of human safety or to sustainable development*

OBJECTIVE

→ ensure that deterioration of the public good is only allowed for a good reason

- **Range of "public interests"** exists (e.g. health, energy, security, environment)
- **Overriding public interest** – can be reasonably considered that simple declaration without well-grounded justification is not sufficient
- **Weighing of interests** - project benefits against project impacts
 - "Water costs" (i.e. negative effects of the project) to be weighed against project benefits
 - Appropriate mix of qualitative, quantitative and monetised information
- **Public consultation** helps

Article 4.7(b)

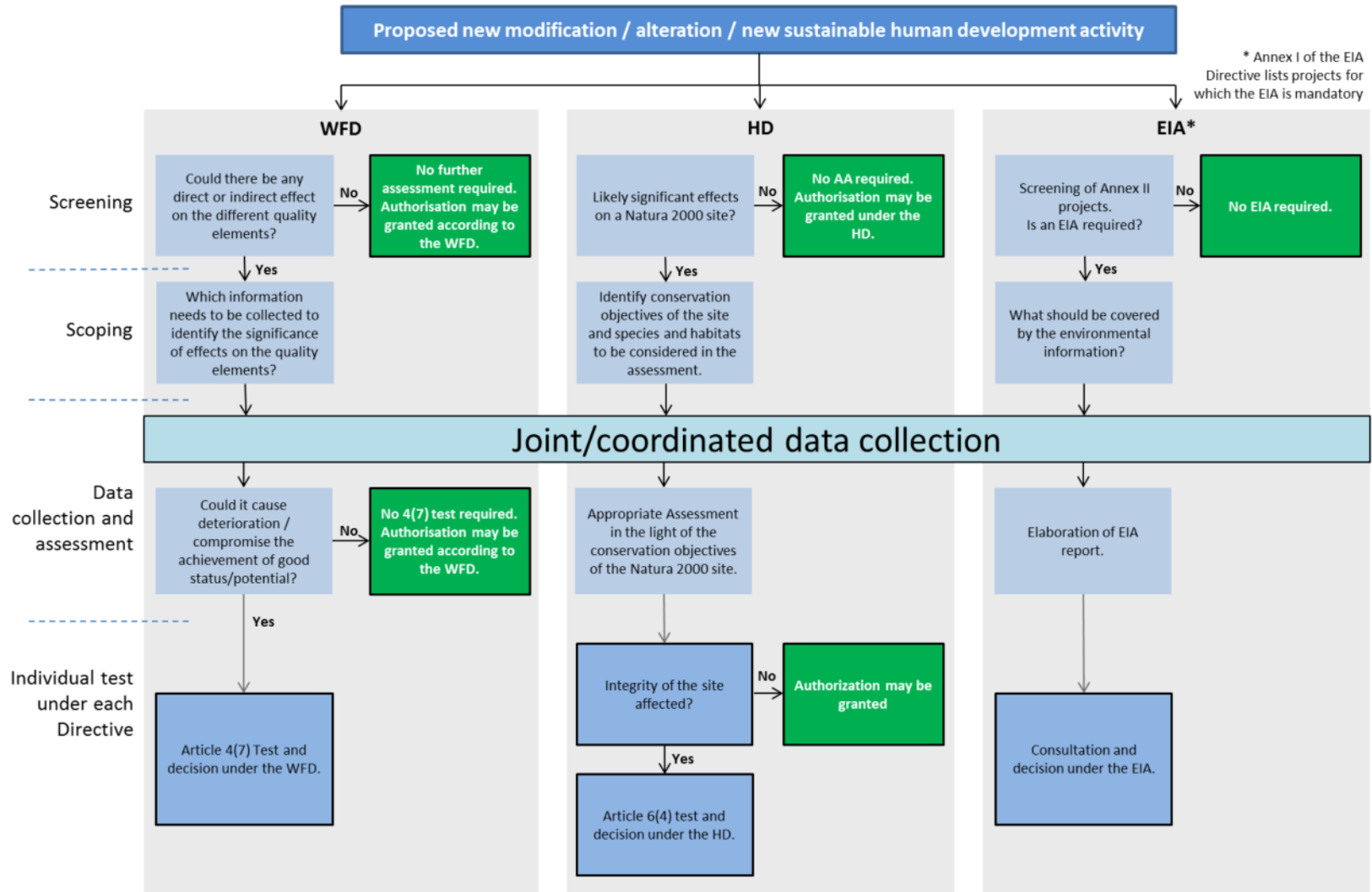
“the reasons for those modifications or alterations are specifically **set out and explained in the river basin management plan** required under Article 13 and the objectives are reviewed every six years”

OBJECTIVE

→ **allow public scrutiny in the context of river basin management planning**

- Ensuring that use of Article 4.7 exemptions is **transparent and traceable**
- MS **not required to wait** for next RBMP to authorise project, however,
- **Benefits** of including planned/envisaged projects in **draft RBMPs**
 - Allows for assessment of **interaction with other projects** and developments
 - Making **best use of public participation** process during RBMP elaboration
 - **Reduce likelihood** that interested **parties will challenge** subsequent decision on project
 - Also beneficial to include projects which may not cause deterioration

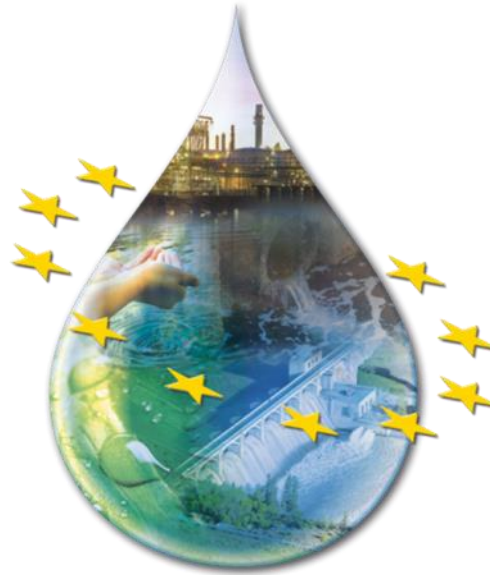
Potential for streamlining of assessments WFD, HD and EIA



Important issues related to WFD Art. 4.7

- Assessment required in advance whether planned project may cause deterioration / non-achievement of WFD objectives
- In case of expected deterioration/non-achievement: Project needs to meet Art. 4.7 conditions for authorisation
- Completing an EIA does not guarantee the fulfilment of the WFD obligations since specific assessments are needed, however
- Potential synergies with EIA/SEA and Habitats Directive are significant - MS are encouraged to exploit them at national level (e.g. data collection, consultation processes)
- National legal frameworks should allow for effective application
- Technical and environmental expertise needed – exchange and expertise of / with River Basin Management / water authority
- Transparency is important and the assessment and conclusions need to be documented in the River Basin Management Plan

Thank you for your attention!



<http://water.europa.eu/policy>

Link to CIS Guidance Documents: http://ec.europa.eu/environment/water/water-framework/facts_figures/guidance_docs_en.htm