

New experience in implementation of Article 4.7 of the WFD

JASPERS Checklist Tool

Bratislava, 12 September 2018

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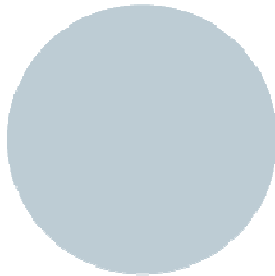
Joint Assistance to Support Projects in European Regions

- **Partnership between the European Commission (EC) and the European Investment Bank (EIB) Managed by the EIB on the basis of a Framework Partnership Agreement with the EC**
- **Established in 2006 for the Programming Period 2007-2013, first extension for period 2014-2020**
- **Assistance is free of charge, as a service to the member states**



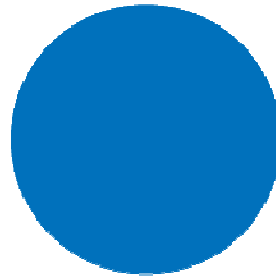
How we work

Three pillars of services



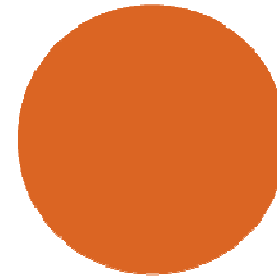
Advisory

Guidance in the preparation of projects, with upstream involvement, in-line with ERDF-regulation



Capacity Building

Proximity to beneficiaries and knowledge sharing with hands-on approach and training



IQR

Final endorsement for project approval as per article 102.1 of CPR

Services

- 1** Support for the preparation of sector strategies and Master Plans
- 2** Support to project screening and prioritisation to maximise effectiveness of available funds in a sector
- 3** Support to project preparation through methodological advice and review and comments on intermediate and final project document
- 4** Capacity building through hands-on approach during project preparation support, dedicated training events, train-the-trainers workshop, and working papers
- 5** Integrated support in cross-sector projects (e.g. urban development projects in the context of the Smart Cities concept)
- 6** Support to the preparation of programmes and schemes (e.g. calls for proposals for non-Major projects, energy efficiency schemes)
- 7** Support for the definition and standardisation of project approval criteria and clarification of issues arising during the approval process
- 8** Support for the removal of bottlenecks to realise projects (e.g. advice on State-aid)
- 9** Methodological guidance (e.g. on feasibility studies, cost-benefit analysis, climate change adaptation)
- 10** Appraisal of projects to ensure their soundness, quality, and compliance with relevant regulations to facilitate EC approval
- 11** Support to project implementation through advice on procurement strategies, draft tender documents and establishment of Projects Implementation Units
- 12** Preparation of technical assessments to serve as the basis for policy decisions and regulations
- 13** Integrated support in cross-sector projects (e.g. urban development projects in the context of the Smart Cities concept)

Networking and Competence Centre

Activities

Networking Platform multi country capacity building, training, knowledge sharing, dissemination of good practice and lessons learned (in Brussels and at regional level)

- Focus on key competencies for cohesion policy, good practice for project preparation and other relevant horizontal/ sectoral topics
- Discussion forums (online/offline)

In-country capacity building actions

- Request by MSs for targeted capacity building assignments (**train-the-trainers**) and contribution to other JASPERS actions
- Follow-up of multi-country actions (at regional level)

Advisory on horizontal issues - State aid, climate change, PPPs, CBA, environmental issues, etc.

Videos and e-learning

Publications and guidance documents

Web portal: www.jaspersnetwork.org



JASPERS Checklist Tool



Water Framework Directive
Project assessment checklist tool



- Version 1.0 released in July 2018
- The checklist is intended for use as a support tool for stakeholders involved in project development and relevant environmental decision-making.
- Steps 1 to 3 of the checklist may be used for assessing whether projects could lead to deterioration or compromise the achievement of the WFD objectives.
- Step 4 can only be used for projects that are within the scope of Article 4(7) of WFD.

<http://www.jaspersnetwork.org/plugins/servlet/documentRepository/displayDocumentDetails?documentId=441>

JASPERS Checklist Tool

Content Overview (1/2)

- Before starting with the Checklist steps, the **Preamble** provides the user with an understanding of underlying concepts, such as:
 - what is meant by an effect on water body status
 - what type of activities can affect water body status
 - what is meant by residual effects on WFD supporting elements
 - the relevance of article 4.7 to new sustainable development and high status water bodies
 - the relevance to other WFD exemptions
 - streamlining environmental assessments
 - transboundary considerations
 - engagement with stakeholders

JASPERS Checklist Tool

Content Overview (2/2)

The main body text is divided into 4 parts corresponding to **4 steps**:

1. **Context and screening**: is there a causal mechanism for a direct or indirect effect on status at element level?
2. **Scoping**: consider non-temporary effects, significance at water body level, alone or in-combination effects
3. (further) **Data collection and investigations**
4. **Application of Article 4(7) tests**: mitigation measures, alternatives, overriding public interest, inclusion in RBMP; also Articles 4(8) and 4(9)

The checklist tool was developed in parallel, and is consistent with **CIS Guidance 36**

Step One: Context and Screening (1/3)

Information Collation	1.1 Information about the project
	1.2 Identify potentially affected water bodies
	1.3 Size, Scale, Location and Mapping of water bodies
	1.4 Identify water dependent protected areas
	1.5 Main Characteristics of water bodies and areas identified in steps 1.2 and 1.4
	1.6 Water body status and status of the water dependent protected areas– "problems, risks and causes"
	1.7 "Record" future status objectives for each relevant water body and similar information for water dependent protected areas
	1.8 List of measures in the RBMP linked to the potentially affected water bodies and water dependent protected areas
	1.9 List of any other projects that could affect the above
Coarse Evaluation	1.10 For each potentially affected water body, identify possible mechanisms for a direct and indirect effect on status at element level
	1.11 Consult competent authority on outcome of analysis



Step One: Context and Screening (2/3)

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Question / Inquiry

1.1 Collate information about the proposed project. Include the project name and location, the alternatives considered and where applicable, other physical modifications to surface water bodies or other activities leading to a change in the level of groundwater that are part of the same overall programme.

1.1.

Provided free field

Don't forget!

Note (a) Any new modification or development of the physical characteristics of a surface water body [592] or alteration to the level of groundwater [610] has the potential to affect the status of the water body. This does not mean that Article 4(7) always needs to be applied; rather that evidence is required to demonstrate whether or not status will be affected.

Don't forget.....

1.2 Which water bodies could potentially be affected by the modification(s), alteration(s) or human activities? Identify all water bodies including upstream and downstream surface water bodies and groundwater bodies. Water body information can be found in the relevant River Basin Management Plan or obtained from the WFD competent authority.

1.2

Examples

If a potential causal mechanism(s) is identified, or if it is uncertain whether status would be affected for any of the elements (for example because of proximity to a status class boundary), continue to STEP TWO.

Don't forget!

Note (g) This first step is only a broad filter [1173]. It is designed to 'screen out' projects that will clearly not affect the status of any WFD element at the of the water body, or to identify the elements that require further attention.

Example

Step one outcomes

It is clear that a new tidal barrage will cause direct and indirect deterioration in the status of several BQEs and hydromorphological supporting elements. Project continues to STEP TWO.

There is a lack of data and much uncertainty about the possible effects of a proposed new hydropower project. Project continues to STEP TWO.

The pillars for a new bridge will be constructed in the flood plain immediately to landward of the existing flood embankment. No mechanism for a direct or indirect effect on the ecological or chemical status of any water body is identified. The evidence to support this conclusion is recorded and the project does NOT need to continue to STEP TWO.

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Step One: Context and Screening (3/3)

Five tables in the Annex, 1a to 1e support step 1.10, developed for:

- Rivers
- Lakes
- Transitional waters
- Coastal waters
- Groundwater bodies

Drop down fields

- **Yes**
- **No**
- **Uncertain**

Table 1a WFD compliance assessment cause-and-effect mechanisms (Rivers)

WFD elements ¹	Is there a possible causal mechanism for a direct effect on...? Notes (a)(c)(e)(g) ²	Is there a possible causal mechanism for an indirect effect on...? Notes (a)-(c) and (e)-(g) ³
Hydromorphological supporting elements		
Hydrology: quantity and dynamics of flow	Yes	Yes
Hydrology: connection to groundwaters	Yes	Yes
River continuity	Yes	Yes
Morphology: river depth and width	Yes	Yes
Morphology: river bed structure, substrate	Yes	Yes
Morphology: riparian zone structure	Yes	Yes
Physico-chemical supporting elements		
Thermal conditions	Yes	Yes
Oxygenation	Yes	Yes
Salinity	Yes	Yes
Acidification	Yes	Yes
Nutrient conditions	Yes	Yes
Specific synthetic pollutants	Yes	Yes
Specific non-synthetic pollutants	Yes	Yes
Biological quality elements		
Phytoplankton	Yes	Yes

Step Two: Scoping (1/2)

2.1 Confirm which WFD elements require further consideration

2.2 Taking into account the information collated in 1.2 to 1.9, address the following questions:

2.2 (i) Will the effect be temporary?

2.2 (ii) Will the effect be insignificant in the context of the water body?

2.2 (iii) Can it be concluded that there will be no in-combination effects?

Yes



No

2.3 Establish Scope of investigations and data collections to answer unknowns?

2.4 Confirm scope of investigations with Competent Authorities

2.5 Integrate / coordinate investigations with “other processes” (EIA, Natura ...)

Step Three

Step Two: Scoping (2/2)

Five tables in the Annex, 2a to 2e support step 2.2, developed for:

- Rivers
- Lakes
- Transitional waters
- Coastal waters
- Groundwater bodies

Possibility to introduce a ✓ indicator

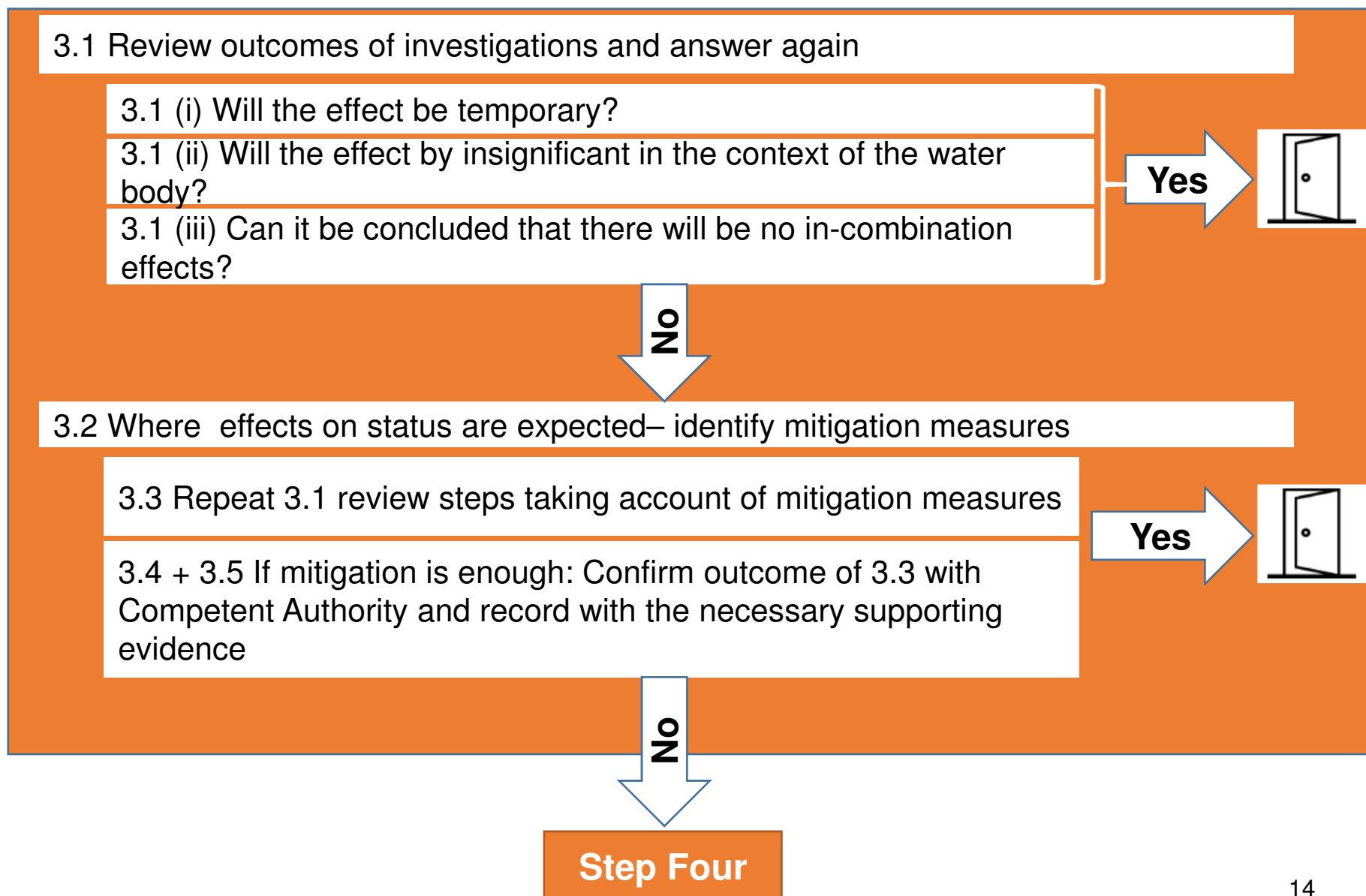
Drop down fields

- Yes
- No
- Uncertain

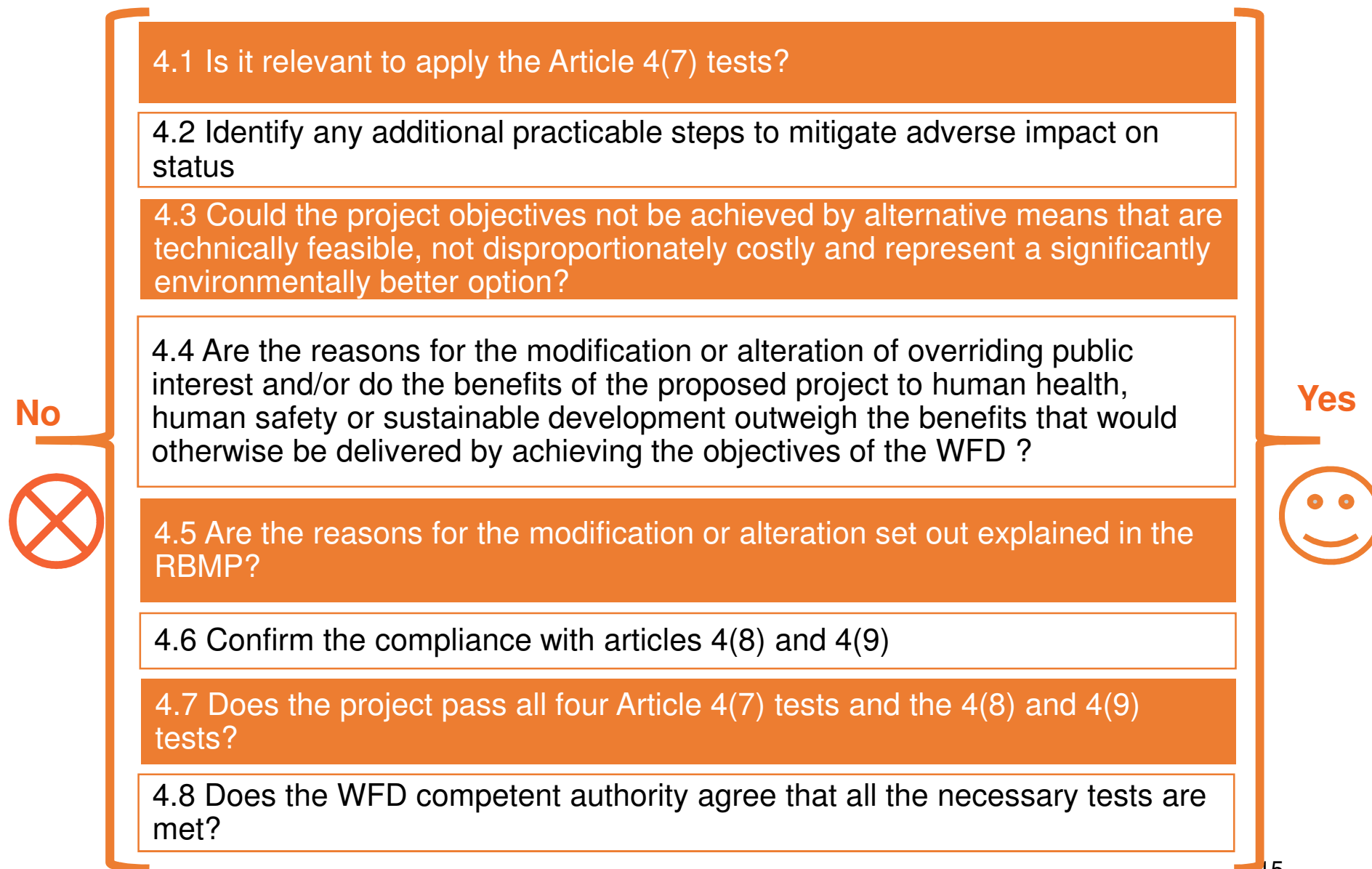
Table 2a WFD compliance assessment scoping table (Rivers)

Under each heading, identify the element(s) that could potentially be affected by the project (from Table 1a)	2.2(i) Will the effect be temporary? Note (i)	2.2(ii) Is the effect on the element insignificant <u>in the context of the water body</u> ? Notes (j) and (k)	2.2(iii) Can it be concluded that there are no potential in-combination effects Note (l)
Hydromorphological supporting elements			
Hydrology: quantity and dynamics of flow	Yes	Yes	Yes
Hydrology: connection to groundwaters	Yes	Yes	Yes
River continuity	Yes	Yes	Yes
Morphology: river depth and width	Yes	Yes	Yes
Morphology: river bed structure, substrate	Yes	Yes	Yes
Morphology: riparian zone structure	Yes	Yes	Yes
Physico-chemical supporting elements			
Thermal conditions	Yes	Yes	Yes
Oxygenation	Yes	Yes	Yes
Salinity	Yes	Yes	Yes
Acidification	Yes	Yes	Yes
Nutrient conditions	Yes	Yes	Yes
Specific synthetic pollutants	Yes	Yes	Yes
Specific non-synthetic pollutants	Yes	Yes	Yes
Biological quality elements			
Phytoplankton	Yes	Yes	Yes
Macrophytes and phytobenthos	Yes	Yes	Yes
Benthic invertebrate fauna	Yes	Yes	Yes
Fish fauna	Yes	Yes	Yes
Chemical status - see Directive 2008/105/EC amended by 2013/39/EU			
Priority substances	Yes	Yes	Yes
Priority hazardous substances	Yes	Yes	Yes
EU protected areas (see WFD Annex IV)	Could the status of EU protected area(s) be compromised? Explain your response. Note (o)		

Step Three: (further) Data Collection



Step Four, Article 4(7) test



Way Forward

- **Version 1.0 of the JASPERS checklist tool** will be kept updated in the future with changes and amendments subject to feedback that will be received following concrete use in projects assessments.
- We are currently planning targeted trainings about the use of the checklist.
- Any future updates will be made also available on the JASPERS Knowledge and Learning Centre: www.jaspersnetwork.org
- For any enquiry on this document and subsequent updates please contact Mr. Massimo Marra or Ms. Ismini Kyriazopoulou using the following email address: jaspersnetwork@eib.org