

OPERATION, MAINTENANCE AND RECONSTRUCTION OF WATER STRUCTURES WITH REGARD TO APPLICATION ARTICLE 4.7 OF THE WATER FRAMEWORK DIRECTIVE

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Article 4.7 of the Directive 2000/60/EC

“Member States will not be in breach of this Directive when:

— failure to achieve good groundwater status, good ecological status or, where relevant, good ecological potential or to prevent deterioration in the status of a body of surface water or groundwater is the result of new modifications to the physical characteristics of a surface water body or alterations to the level of bodies of groundwater, or

— failure to prevent deterioration from high status to good status of a body of surface water is the result of new sustainable human development activities

WATER ACT 364/2004 COLL.

§ 52 Water Structures are structures and its objects and parts those allowed special water usage or manipulation with waters

Types of water structures

- Structures maintain, modified or form river bed of water course
- Flood protection structures
- Water reservoirs, fish-ways weirs dikes, hydropower plants
- Wells, water pipelines
- Sewers, wastewater treatment plants
- Hydro-amelioration
- Inland navigation water structures
- Water structures aims to recreation

§ 53 Duties of water structure owner

Owner of water structure has to - Keep water structure at appropriate state and ensure its maintenance and operation so that ensure water flow ... and so that not threaten security of inhabitants, property and water management interest and of other low defined interests.

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 MODIFICATION TO THE PHYSICAL CHARACTERISTICS OF SURFACE WATER BODIES, ALTERNATIONS TO THE LEVEL OF GROUNDWATER, OR NEW SUSTAINABLE HUMAN DEVELOPMENT ACTIVITIES

3.3.1 Considerations regarding the time-span of effects on water body status/potential

Temporary short-term effects can occur as a result of short-duration human activities, such as construction or maintenance works.

With regard to maintenance, the frequency can have an influence on the effects on the status or potential of a water body. A shift from frequent maintenance actions to more observing practice and action on demand with only short-term effects can reduce impacts while allowing preserving the use. However, in other cases if maintenance has not been carried out regularly or recently, it might also have the same effects on ecological status/potential as completely new works. In other words, if water body status/potential has recovered/stabilised since the last time maintenance was carried out, the fact it is considered to be 'maintenance' from an engineering perspective does not necessarily mean that it cannot affect water body status. In such cases, 'maintenance' activity should be assessed in the same way as a proposed new physical modification and the Article 4(7) Test may need to be applied. Note that regular maintenance works (e.g. maintenance dredging) can potentially contribute to a failure to achieve good ecological status. However, whilst discontinued maintenance could enable the water body to reach good status, stopping or constraining maintenance activities in designated heavily modified water bodies could also result in a "significant adverse effect on the use" in the meaning of Article 4(3), for which the designation has been made. In such cases, maintenance works could be taken into account in the process of defining "good ecological potential" and would therefore not be subject to an Article 4(7) Test.

MAINTENANCE WORKS DO NOT FULFIL THE ESSENCE OF CATEGORISATION AMONG THE “NEW MODIFICATIONS TO THE PHYSICAL CHARACTERISTICS OF A SURFACE WATER BODY” AND/OR “NEW SUSTAINABLE HUMAN DEVELOPMENT ACTIVITIES”

- The essence of maintenance works having character of repairs and maintenance of river beds and localized water constructions is to ensure sustainable fulfilment of all functions required by the society in full spectrum, thus in the status of river beds and water structures corresponding to the fulfilment of all these functions.
- Therefore, for maintenance works, it is performance of a group of activities whose objective is to maintain the status of river beds and water structures, in composition of which within water bodies the water bodies were classified and at the same time, without a change of their proportions and impacts on the elements within the water body.

- The repairs and maintenance of river beds and water structures lead to the maintenance of the status valid for their localisation and morphology according to the real state of ownership rights to the lands affected by the water curse, thus, to the protection of private and public ownership and also to the maintenance of biological and technical parameters of the water courses and water structures in particular in terms of their safety for the fulfilment of all of their functions.

- The repair and maintenance of the property consisting of water courses and water structures is the fundamental principle of administration of the private or public entrusted property in the state of acquisition of the property regardless of whether it is property constructed formerly as a new investment or a natural status maintained by maintenance. The essence of the task is to create the resources of property depreciations within the periods corresponding to their natural recovery in the same scope for maintaining the required functions.

CLEAR RULES MAKES GOOD RELATIONSHIPS

