

# ClientEarth - Submission to the European Commission Call for Evidence on the Revision of the Water Framework Directive (WFD)

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ClientEarth welcomes the opportunity to provide input on the potential revision of the Water Framework Directive (Directive 2000/60/EC, “WFD”), a cornerstone of EU environmental law and a central instrument for the protection of freshwater ecosystems as well as the resilience of the economy of the European Union.

As set out below, we consider that revising the directive in the absence of clear evidence risks undermining legal certainty, weakening environmental protection and compromising the achievement of the directive’s objectives.

## I. Why the revision is unjustified

### A. Lack of evidence supporting the reopening

The most recent evidence points towards the fact that the Water Framework Directive does not need to be revised, but instead that Member States should focus on implementation.

This includes:

- the Fitness Check of EU water legislation conducted by the Commission (2019), which concluded that the Water Framework Directive is broadly fit for purpose and insisted that “*there is limited room for simplification and reduction of the Directives’ administrative burden without jeopardising their objectives. Some further streamlining of monitoring and electronic reporting, together with a continuation of the ongoing digitalisation, could help alleviate the required administrative effort.*”<sup>1</sup>
- the 2025 Report of the Commission on River Basin Management Plans and Flood Risk Management Plans, which highlights persistent implementation gaps rather than legislative deficiencies and concludes that “*All Member States should increase their level of ambition and accelerate action to reduce the compliance gap as much as possible by 2027.*”<sup>2</sup>
- and the 2025 Commission study “Update of the Costs of Not Implementing EU Environmental Law” which reveals that the “*total annual cost of non-implementation for coastal waters under WFD is €2.6bn per year*”<sup>3</sup> and clearly states that “*Environmental legislation, when implemented and enforced, will deliver improvements for environmental health, human health, and society and the economy more broadly. Where relevant legislation is not implemented as planned and targets are not met, such benefits are foregone.*”<sup>4</sup> The Commission has estimated that bringing water bodies covered by Article 4(4) exemptions to good status could generate benefits of approximately 38,6 billion euros per year for surface waters<sup>5</sup>. This demonstrates that **the economic case strongly supports full implementation, rather than legislative reopening.**

All point to the fact that the **primary issue lies in insufficient implementation and enforcement, not in the provisions of the Directive.**

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<sup>1</sup> European Commission, Fitness Check of the Water Framework Directive, Groundwater Directive, Environmental Quality Standards Directive and Floods Directive, *SWD(2019) 439 final*, p. 124.

<sup>2</sup> European Commission, Report on the implementation of the Water Framework Directive (2000/60/EC) and the Floods Directive (2007/60/EC) Third river basin management plans Second flood risk management plans, *COM(2025) 2 final*, p. 36.

<sup>3</sup> European Commission study (2025), “Update of the Costs of Not Implementing EU Environmental Law”, p. 180.

<sup>4</sup> European Commission study (2025), “Update of the Costs of Not Implementing EU Environmental Law”, p.2.

<sup>5</sup> 2025 Commission study “Update of the Costs of Not Implementing EU Environmental Law”, page 6

Contrary to what is required by the EU Treaties themselves<sup>6</sup>, there is no indication that the revision is based on available scientific and technical data demonstrating deficiencies in the directive itself as opposed to its implementation.

Revising the Directive in the absence of clear evidence would therefore undermine legal certainty, disrupt the coherence of EU law, and weaken public trust in EU environmental governance.

## **B. Prematurity of revision in light of recent legislative developments**

A revision appears premature given the number of **recent and upcoming regulatory developments** whose effects have not yet been assessed.

### **1. Critical Raw Materials Act (CRMA)**

The CRMA (2024) introduced the concept of “strategic projects”, with significant legal consequences such as accelerated permitting procedures, priority access to administrative and financial support and a presumption of public interest, facilitating reliance on derogations.

Early implementation already demonstrates that this framework can place significant pressure on authorities to prioritise speed over thorough environmental assessment, even for mining projects with substantial impacts on water resources.

### **2. New derogations (2026, Awaiting publication in Official Journal<sup>7</sup>)**

A few weeks ago, new derogations were introduced:

- temporary deterioration of chemical status (up to 1 year);
- temporary deterioration of biological status (up to 3 years);
- and the possibility to relocate pollution between water bodies in certain cases.

The reform also introduced a definition of deterioration as well as the possibility to use progress indicators, which will ensure Member States can communicate more on their progress and achievements.

These changes significantly affect the operation of the directive and have not even entered into force let alone been subject to comprehensive evaluation.

### **3. Upcoming guidance on the WFD and permitting, in particular mining**

The Commission has announced it will publish guidance within the next month *“to enable a simpler and more harmonised implementation in Member States of the EU law on environmental permitting, including aspects relating to the mining sector”*<sup>8</sup>. This guidance will address key interpretative issues currently cited as justification for reform, notably by clarifying the application of the Water Framework Directive to mining activities.

**In light of these developments, reopening the Directive now would be premature.**

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<sup>6</sup> Article 191(3) TFEU

<sup>7</sup> [2022/0344\(COD\) Protection of groundwater against pollution and environmental quality standards in the field of water policy](#), in particular through the introduction of Article 4.7a and 7b within the WFD.

<sup>8</sup> RESourceEU Action Plan, Brussels, 3.12.2025 COM(2025) 945 final, p. 8

### c. Compliance with the Better Regulation Guidelines

In case the Commission chooses to go ahead with the present revision process despite the above-mentioned issues, the manner in which the present revision is being undertaken raises serious concerns in view of the European Commission's Better Regulation Guidelines<sup>9</sup>. These guidelines require that any initiative to revise such a core piece of EU legislation<sup>10</sup> should be grounded in a transparent, evidence-based and participatory process, including a sufficiently detailed and publicly available impact assessment and meaningful stakeholder consultation.

ClientEarth is concerned that these requirements will not be met in the present case. First, the call for evidence timeline is significantly shorter than the standard 12-week period, thereby limiting the ability of stakeholders to provide informed and meaningful input. Second, the Commission has indicated that a "lightweight" impact assessment would be conducted, without clarifying what this entails in terms of scope, methodology or evidentiary basis. Due to the importance and complexity of the Water Framework Directive, an impact assessment on potential amendments must be concordant in terms of detail and complexity. The Better Regulation guidelines make it clear that impact assessments must analyse the environmental, economic and social consequences of policy options, including long-term effects.

Taken together, these shortcomings risk rendering the revision process procedurally deficient. Both recent findings of maladministration by the Ombudswoman<sup>11</sup> and the recent conclusions of the European Council<sup>12</sup> call on the Commission to ensure that new EU initiatives are in line with better regulation principles and accompanied by high-quality impact assessments. Reopening a cornerstone instrument of EU environmental law without a comprehensive impact assessment and meaningful public participation would be inconsistent with the Better Regulation guidelines.

ClientEarth therefore calls on the Commission to ensure full compliance with the Better Regulation Guidelines by carrying out a comprehensive and transparent impact assessment that rigorously analyses the environmental, social and economic consequences of any potential revision. This should include an **in-depth evaluation of the costs that could be incurred** - for example by public authorities, companies, social security systems and citizens. An assessment of how recent legislative developments - such as the CRMA, Environmental Omnibus proposal and the new WFD reform - affect the current framework should be undertaken to avoid disrupting the coherence of EU law. The Commission should ensure meaningful and balanced stakeholder participation throughout the process, seeking a whole spectrum of views to avoid bias or skewed conclusions, including through direct interactions with stakeholders via interviews, meetings, conferences, hearings or other events.

## II. Risks associated with the weakening of the WFD

### A. Jeopardising the effectiveness of the WFD

The Water Framework Directive is grounded in fundamental principles of EU law defined in the Treaties, such as the precautionary principle, the principle of prevention, the polluter pays principle or the

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<sup>9</sup> European Commission, Better Regulation Guidelines, [SWD\(2021\) 305 final](#)

<sup>10</sup> Concretely, any initiative that is "likely to have significant economic, environmental or social impacts or which entail significant spending, and where the Commission has a choice of policy options". P. 30 of the Better Regulation Guidelines.

<sup>11</sup> Ombudsman, Recommendation on the European Commission's compliance with 'Better Regulation' rules and other procedural requirements in preparing legislative proposals that it considered to be urgent (983/2025/MAS - the "Omnibus" case, 2031/2024/VB - the "migration" case, and 1379/2024/MIK - the "CAP" case)

<sup>12</sup> European Council meeting (19 March 2026) Conclusions, point 36(d).

proportionality principle, as well as principles derived from the Treaties, such as the principle of non-regression, which implies that the current level of environmental protection should not be weakened over time<sup>13</sup>. Expanding derogations or weakening core obligations such as the non-deterioration principle would directly undermine these principles as well as the effectiveness of the directive.

Experience with the application of Article 4 exemptions already shows an extensive reliance on derogations across Member States, without adequate justifications in the River Basin Management Plans. In Germany and Poland for example, coal mining (lignite) exemptions under Article 4(5) cover roughly 8000 km<sup>2</sup><sup>14</sup>, revealing a systematic weakening of the objectives of the Water Framework Directive.

Further flexibility would therefore jeopardise the directive's effectiveness and its ability to achieve good status for all water bodies. The Commission should instead continue to support Member States in the implementation, while providing guidance, if necessary, in order to harmonise the use of exemptions and to ensure they are adequately justified.

## B. Economic and public health implications of weakening the WFD

The European Commission has experienced significant lobbying from certain vocal industry players in recent months, with several mining associations publicly formulating recommendations to weaken our water rules<sup>15</sup>. This disregards the fact that numerous businesses could be affected negatively if the Water Framework Directive was to be undermined.

Europe's economy depends fundamentally on reliable access to clean water. The available evidence demonstrates that **weakening the Water Framework Directive would generate significant economic and public health risks**. The Commission's own Fitness Check confirms that *"the benefits of measures to improve the status of water bodies outweigh the costs"* and further highlights that businesses derive substantial economic benefits from access to water of good quality and sufficient quantity<sup>16</sup>. Weakening the directive would therefore not reduce costs but rather shift them onto other sectors of the economy and onto society as a whole, in contradiction with the polluter pays principle enshrined in Article 191(2) TFEU.

The economic consequences of water degradation are already well documented. The 2025 EU Water Resilience Strategy underlines that riverine pollution, sediment disruption and water scarcity directly affect marine ecosystems and undermine economic activities such as fisheries, aquaculture and tourism (Macias et al., 2025<sup>17</sup>). Similarly, scientific evidence shows that mining-related pollution, such as from coal extraction, can significantly reduce fish reserves (Scharnweber et al., 2024<sup>18</sup>), with direct implications for biodiversity and fisheries-dependent communities.

The impacts extend beyond aquatic ecosystems. Mining activities and associated pollution can reduce agricultural productivity, with evidence indicating that land may require decades to recover its pre-mining

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<sup>13</sup> See, for example, Articles 11 and 191 TFEU as well as the following articles of the WFD : Articles 1, 4, 17, Recital 11.

<sup>14</sup> ClientEarth and EEB (2022) "When the exception becomes the rule – Over use of exemptions due to coal mining and combustion", p. 13, [https://eeb.org/wp-content/uploads/2022/11/Water-briefing\\_formatted\\_PC.pdf](https://eeb.org/wp-content/uploads/2022/11/Water-briefing_formatted_PC.pdf)

<sup>15</sup> For example, [Feedback from: APEP](#), [Feedback from: EURACOAL AISBL](#) (representative of lignite coal mining), [Feedback from: Euromines](#), [Feedback from: International Copper Association Europe](#).

<sup>16</sup> European Commission, Fitness Check of the Water Framework Directive, Groundwater Directive, Environmental Quality Standards Directive and Floods Directive, *SWD(2019) 439 final*, p. 55.

<sup>17</sup> Macias, D., Bisselink, B., Carmona-Moreno, C. et al. The overlooked impacts of freshwater scarcity on oceans as evidenced by the Mediterranean Sea. *Nat Commun* 16, 998 (2025).

<sup>18</sup> Scharnweber K, Scholz C, Schippenbeil V, Milano S, Hühn D. Effects of mining activities on fish communities and food web dynamics in a lowland river. *Ecol Evol*. 2024 Mar 11;14(3):e11111. doi: 10.1002/ece3.11111. PMID: 38476699; PMCID: PMC10928357.

productivity, with long-term financial losses for farmers (Research Institute for Post-Mining Landscapes e.V., 2015<sup>19</sup>).

From a public health perspective, weakening protections against chemical pollution, including heavy metals commonly associated with mining, would increase exposure risks for local populations. This is particularly dangerous where contaminated water bodies serve as sources of drinking water or irrigation for agriculture. These risks are neither hypothetical nor marginal: they are inherent to the types of activities that the proposed revision of the WFD seeks to facilitate. Accordingly, any revision that weakens existing safeguards would be inconsistent with the Union's obligation to ensure a high level of environmental and human health protection under Article 191 TFEU.

### **C. Practical evidence: impacts on water from the mining sector**

Recent practical experience demonstrates not only the environmental risks associated with mining activities, but also how ongoing regulatory developments already stretch the limits of the existing legal framework. In this context, reopening the Water Framework Directive risks further weakening its effectiveness at a time when its safeguards are already under pressure.

The designation of certain mining projects as 'Strategic projects' under the Critical Raw Materials Act provides a clear illustration. In Portugal, the Barroso lithium project was granted this status despite well-documented risks to water resources, biodiversity and local livelihoods, as well as significant procedural shortcomings, including severe limitations on public participation. Expert evidence warning of potential catastrophic failure of the tailings storage facility<sup>20</sup> capable of contaminating water bodies (potentially up to the Atlantic Ocean) was not adequately assessed. It is important to ensure that accelerated procedures do not, in practice, lead to insufficient scrutiny of environmental risks.

Historical evidence further underscores the consequences of such regulatory shortcomings. The 1998 Aznalcóllar tailings dam failure in Spain released millions of cubic metres of toxic waste, contaminating river systems and affecting protected areas, with clean-up costs estimated at 240 million euros of public funds<sup>21</sup> and in clear contrast with the polluter pays principle.

These examples are not isolated. Europe has been deemed the "second place for reported accidents and environmental impacts related to tailings dam failures, with 18% of incidents" (Hoxha, E., Symochko, L., & Pinheiro, M. N. C. (2025))<sup>22</sup>. Across the Union, legacy pollution from mining continues to affect water bodies, requiring long-term derogations and imposing ongoing economic and environmental costs.

Taken together, this evidence shows that the current challenge lies not in overly stringent legal requirements, but in ensuring their effective application. Reopening the directive in this context risks exacerbating existing weaknesses, rather than addressing the underlying causes of non-compliance.

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<sup>19</sup> Forschungsinstitut für Bergbaufolgelandschaften e.V. (2015): Vergleichende Bewertung der Leistungsfähigkeit landwirtschaftlicher Nutzflächen in den Grenzen des Tagebaus Welzow (Teilabschnitte I und II) vor dem Bergbau und nach der Rekultivierung. Abrufbar unter: <http://gl.berlin-brandenburg.de/imperia/md/content/bb-gl/braunkohle/welzow-suedtaai/landschaft.pdf>. Letzter Zugriff am: 28.10.2015.

<sup>20</sup> Testimony of Dr. Steven H. Emerman to the European Parliament Public Hearing on Environmental and Social Impacts of Mining in the EU December 2, 2021 [Hearing 02.12.2021 testimony Emerman.pdf](#)

<sup>21</sup> [Doñana, 25 años después del desastre de Aznalcóllar: amenaza ante pérdida de biodiversidad](#)  
[Cuando el que contamina no paga | Política | EL PAÍS](#)

<sup>22</sup> Hoxha, E., Symochko, L., & Pinheiro, M. N. C. (2025). The environmental impact of mining activities in Europe: a comprehensive analysis. *EQA - International Journal of Environmental Quality*, 66, 30–42. <https://doi.org/10.6092/issn.2281-4485/20521>

## Conclusion and recommendations

**The Water Framework Directive remains one of the most important instruments for protecting Europe's water resources and ensuring long-term economic resilience.** Reopening it disregards the current scientific evidence and would shift environmental, social and economic costs onto society.

**The priority should therefore be clear: to implement, enforce, and strengthen** rather than reopen and weaken the existing framework. Support should be provided to Member States and local authorities responsible for water management through targeted EU funding, technical guidance, and capacity-building.

If any legislative action is pursued, it should be strictly limited to:

- clarifying existing provisions;
- ensuring coherence with sectoral legislation, such as providing clarity on how CRMA provisions may impact the Water Framework Directive;
- and reinforcing environmental safeguards to support implementation.

ClientEarth calls on the Commission to ensure full compliance with the Better Regulation Guidelines by carrying out a comprehensive and transparent impact assessment that rigorously analyses the environmental, social and economic consequences of any potential revision, as well as ensures meaningful and balanced stakeholder participation throughout the process.

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