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CHAPTER 2 IMPLEMENTATION OF THE WFD IN SIX COUNTRIES – IN A NUTSHELL

Problems, transposition and organisational framework

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2.1 *Introduction*

To get an impression of the implementation process in Western-Europe, we made six quick scan studies: the Netherlands, Belgium/Flanders, France, Germany/North Rhine-Westphalia, England-Wales and Denmark. This was done mainly on the basis of existing literature and comparative reports. This chapter is based on the quick scans (see www.centrumvoorumgevingsrecht.nl). The quick scans provide general information on the response of these countries to the principles of the WFD and describe their first formal and practical steps in implementing the WFD.

In addition to being useful for painting a picture of the implementation process on broad canvasses, the quick scans aided the selection of the case basins in the case studies phase and helped formulate new questions which were addressed in more detail in the next phase of the research project. The quick scans were not meant to fully answer the original research questions, but rather to ask more specific ones and give more focus to our research.

Before we proceed with the case studies in Chapters 3 through 7, which describe and analyse the implementation process in more depth, we will first sketch out the main structures and essential background information of the implementation process in a selection of countries based on these quick scan reports. What were the main problems concerning water issues in the selected Member States? How did they transpose the WFD? What was the main organisational framework that they set up to implement the WFD?

2.2 *Main Problems*

The Netherlands

In the Netherlands overall, the challenges are great. The Dutch refer mostly to problems of supply and depletion. Water quality is affected by point sources, diffuse sources and effects of modifications of the flow regimes of rivers, through abstraction, regulation and morphological alterations. Pesticides, fertilisers and nutrients such as nitrates and phosphorus are major threats to groundwater and surface waters. Nutrients cause problems of acidification and eutrophication (overfertilisation of waters). In some parts of the Netherlands, salinisation and droughts can be a problem.

Germany

The failure to achieve the WFD objectives related to surface water bodies in Germany can probably be attributed in most cases to physical alterations affecting the hydrology and/or geomorphology of a water body, as well as transverse structures such as weirs and sills that impede the upstream migration of fish and smaller aquatic organisms (Borchardt, Bosenius et al. 2005). Another important factor is nutrient input from diffuse sources, mainly agricultural activities, as well as chemical pressures from wastewater treatment plants and precipitation drainage (Borchardt, Bosenius et al. 2005). Concerning groundwater, the challenge is also that the quality status is hindered mainly by the input of nutrients from agricultural areas.

England and Wales

Government departments and agencies in Britain acknowledge that diffuse source pressure is the greatest threat to achieving good ecological status in UK waters by 2015 (Johnes 2005). Another concern in England, especially in areas in the south-east, is the risk of drought in the summer, related to irrigation needs (De Heer, Nijwening et al. 2004). Although agricultural use of water is limited, during the dry months when the availability of river water decreases, the increased demand from agriculture seems to be contributing to drought in some areas (Nielsen 2005). The low flows in rivers caused by over-abstraction is another concern (Tunstall and Green 2003). A further issue in England and Wales is flooding. In England, 10% of the country is at risk from flooding, a risk that comes mainly from the sea rather than from rivers (Tunstall and Green 2003). Leakage of sewers and sediments are also known problems.

France

In France, the main challenge with regard to quality concerns diffuse pollution (nitrates and pesticides), micro-substances and micro-biological contamination. Assuring the good quality of drinking water and the reduction of priority substances are also important challenges. Quantitative issues are prominent on the agenda, such as the challenge of low surface water in summer, groundwater depletion and flooding. Groundwaters are threatened by over-consumption from every type of water use. Some deep groundwater bodies – like the ones which supply Paris and Bordeaux – may be completely depleted in the next decades if no serious measures are taken.

Denmark

Being surrounded by so much water, Denmark's domestic environmental policy has focused to a considerable degree on the aquatic environment (Andersen 1997). During the 1970s and 1980s, Denmark focused on minimising pollution from point sources. At the present time, the primary concern is the diffuse pollution (with nutrients) of surface waters and the leakage of nitrates, pesticides and other harmful substances into surface and groundwater (Dørge and Windolf 2003). Farmland covers around two-thirds of the national territory (Dørge and Windolf 2003). Around 80% of the nitrogen outlet into Danish freshwaters is caused by diffuse pollution from farmland (Dørge and Windolf

2003). The ecological status of surface waters, especially of the minor streams, is another worry (Dørge and Windolf 2003). Danish streams are mainly influenced by physical changes, such as outlet of wastewater and abstraction of water for drinking purposes or irrigation (Nielsen 2004). Groundwater was one of the major political subjects on the agenda in 1990s (Enemark 2002). In some parts of the country, water abstraction is greater than the exploitable level. The groundwater abstraction rates have fallen by 40% since 1990, but both water abstraction and consumption have stabilised in recent years. The quality of groundwater is affected primarily by the infiltration of nitrates and pesticides from agricultural land (NERI 2005).

Belgium/Flanders

In Belgium, even though the problems between the three regions are different, the main problems with the water system are quite similar. An important problem is the poor water quality and the subsequent need to develop a better performing system for water purification. At the beginning of the 1990s, the water quality improved remarkably, but at the end of the 1990s this favourable development stagnated. Industry has already put a great deal of effort into purifying wastewater, and it is now up to the agricultural sector to increase its efforts to reduce its impact on the environment and the aquatic environment. In case of households, the most important ambition is to further develop and renovate the existing sewage and water treatment infrastructure. Another problem that pops up on the policy agenda, mostly in the light of the poor ecological status of water, is the poor ecological structure of watercourses. Under the discursive umbrella of 'ecological adjustments' (*ecologische herinrichting*), efforts are now being made to re-adapt the structure of watercourses. Furthermore, as is the case in other countries, historic contamination of watercourses leaves traces in water beds. Besides problems relating to water purification, ecological structure and water beds, the three Belgian regions increasingly have to cope with flooding.

2.3 Transposition

The Netherlands

The WFD has been transposed into Dutch Law by the WFD Implementation Act which has integrated the WFD into existing acts, consisting of the Water management act (*Wet op de waterhuishouding*, hereinafter referred to as Wwh) and the Environmental management act (*Wet milieubeheer*, hereinafter referred to as Wm) (Stb. 2005, no. 303, 21 June 2005).

It is expected that in September 2009 a new, fully integrated Water act (*Waterwet*) will come into force (Stb. 2009, no. 107, 12 March 2009). The WFD will be fully integrated into this law, except for the environmental quality standards and the monitoring, which will be implemented in environmental legislation (*Wet milieubeheer*) after 2009. The environmental quality standards for the river basins and the monitoring obligations will be regulated in more detail in an Order in Council based on the Wm (*AMvB*

kwaliteitseisen en monitoring water) (Article 5.2b Wm, see www.kaderrichtlijnwater.nl and Backes, Kruyt and Van Rijswick 2007).

Germany/North Rhine-Westphalia

In German law the WFD has been implemented in existing acts, consisting of changes to the federal Water management act (*Wasserhaushaltsgesetz*, hereinafter referred to as WHG), changes to the respective Water acts of the *Länder* (*Landeswassergesetz*, hereinafter referred to as LWG), and the issuing of regulations for the *Länder* (*Landesverordnung*). Since this report focuses on North Rhine-Westphalia, only the LWG and *Landesverordnungen* of this state shall be discussed.

The WHG is a federal framework law. Although since 2006 the German Constitution has changed and since then the federal state has a *konkurrierende Gesetzgebungskompetenz* (art. 74 I, No. 32 Grundgesetz) and is no longer limited to 'framework law', this has not (yet) influenced the WHG as it is now in force (2008). The provisions of the WHG are not directly binding on the citizens of the *Länder* (Inspectie Verkeer en Waterstaat 2004, p. 16). The *Länder* have transposed this federal framework into their LWGs, which bind their citizens. For constitutional reasons, until 2006 the WHG could only be amended to include the general intent of the WFD. Therefore, some provisions could not be incorporated into the WHG, but had to be transposed by the states. These provisions not only concern procedural requirements such as arrangements to set up the programmes of measures and the RBMPs and the conducting of public consultation, but also the standards for monitoring the status of waters (Winnegge and Maurer 2002). Now the constitutional competences have changed, it is to be seen how German water law will develop in the future. A first step on this road, which is expected to be long and winding (Czychowski/Reinhard 2007, Einl. 8), will be the chapters on the proposed federal *Umweltgesetzbuch* (environmental law book).⁷

The relevant *Landesverordnung* in North Rhine-Westphalia is the *Gewässerbestandsaufnahme-, Einstufungs- und Überwachungsverordnung* (hereinafter referred to as GewBEÜV). This regulation transposes annexes II, III and V of the WFD.

England and Wales

It should be noted that the UK consists of three jurisdictions. This report will not discuss implementation in Northern Ireland or Scotland, but only in the jurisdiction of England and Wales. The transposition of the WFD in the UK was completed in each of the countries separately. England and Wales chose not to implement the WFD into existing acts, but instead to draft new legislation in the form of secondary law. The implementation legislation for England and Wales primarily consists of The Water Environment (Water Framework Directive) Regulations 2003 for England and Wales,

⁷ Siedler/Zeitler/Dahme, WHG, München 2008, 35. Erg.lieferung, 6/2008, Vorb. WHG 5b provides an overview of the draft *Umweltgesetzbuch* as far as the water law is concerned.

Statutory Instrument 2003 No. 3242 (hereinafter referred to as the Regulations). The Regulations are legally binding.

France

The WFD has been transposed into French law by Law 2004-338⁸ and mainly consists of changes and additions to the Environmental Act (*Code de l'environnement*, hereinafter referred to as CE).⁹

Denmark

The WFD has been formally implemented into Danish Law through one legislative act: the *Miljømålsloven* (hereinafter referred to as MML).¹⁰ The MML integrates the adoption of water management plans and the adoption of management plans for the preservation and improvement of Natura 2000 sites. The MML defines which public bodies have the competence to adopt plans and which procedures have to be followed.

Belgium/Flanders

In the 1980s, the main competences for water management, among many others, were regionalised. There are three regions – the Flemish region, the Walloon region and the region of Brussels-Capital. In the water sphere, the federal (national) government is the only one which is responsible for the management of coastal waters, drinking water pricing, and representing Belgium in European and international forums. Every region has a different style in water management. In this report, the focus is on Flanders.

In Flanders, the WFD was transposed into the Decree on Integrated Water Management of July 18th 2003 (*Decreet betreffende het integraal waterbeleid*, hereinafter referred to as DIW). The DIW defines a classification of water systems into river basins and river basin districts, sub-river basins and sub-sub-river basins. It defines the goals and principles of integrated water management and transposes particular obligations of the WFD with regard to environmental goals, analyses and assessments, policy measure programmes, monitoring programmes and the register of protected areas.

2.4 Organisational framework

The Netherlands

Authorities

The formal competent authority as obligated by the WFD is the Dutch Minister of Transport, Water Management and Public Works. In Dutch water law and management, there is a distinction between management at the national level of the larger waters

⁸ Law of 21 April 2004, published in the French Official Journal on 22 April 2004.

⁹ Apart from changes in the CE, it also comprises some changes in the *Code de l'urbanisme* and in the *Code général des collectivités territoriales*.

¹⁰ Act no. 1150 of 17 December 2003 on Environmental Objectives.

(larger rivers, canals, lakes and coastal waters), and the management of smaller regional waters. Due to this historical decentralised approach in the Netherlands, there are three additional competent authorities regarding water management, each with its own competences (Chapter 3 Waterwet, Van den Berg, Van Hall and Van Rijswijk 2003).

- On the regional level, the provinces are the competent authorities for strategic planning;
- For operational planning and the water management of the regional water system the regional water boards are the competent authorities;
- Finally, the municipalities have tasks in the field of urban water management, especially regarding waste and rain water collection, and ground water management in urban areas.

Issues that need to be addressed on a national level range from basic monitoring principles, the criteria for denominating the various types of water bodies to the final decision on the river basin management plan and its programme of measures. To make sure that goals and measures fit within the overall picture for the river basin involved, those responsible consult closely with the international river commissions for the Meuse, Scheldt and Ems. The WFD is also a prominent issue in the international discussions between Rhine Water Directors. As far as possible, however, decisions are made in close cooperation with other relevant ministries, provinces, water boards and municipalities.

Competences

The Minister of Transport, Water Management and Public Works, together with the Minister of Agriculture, Nature Conservation and Food Quality and the Minister of Housing, Physical Planning and the Environment, are responsible for national water planning and policy.¹¹

They produce a strategic document in which the four Dutch RBMPs (published in January 2009 at: www.nationaalwaterplan.nl and www.kaderrichtlijnwater.nl) and summaries of the PoMs will be integrated in the RBMPs. Besides, the Minister of Transport, Water Management and Public Works also makes operational plans for the river basin districts. These operational management plans include the necessary part of the programmes of measures. The management of national waters is carried out by the regional offices of the Directorate-General for Public Works and Water Management (*Rijkswaterstaat*).

Provinces (*Provinciale staten*) make strategic plans for the parts of regional waters lying within their territory. The provinces draw up strategic plans for regional water management such as the provincial water plan or an integrated provincial *omgevingsplan* following the main direction of the national policies, mainly of spatial planning, environmental policy and water policy (Article 5 Meuse Report). A *provinciaal*

¹¹ Planning is regulated in Chapter 4 of the *Waterwet*.

omgevingsplan is an integrated plan containing the spatial planning on a provincial level, the environmental management plan, the plan for mobility and the water plan.

Operational management plans for regional waters are made by the regional water boards (*waterschappen*), the competent authority, for all aspects of regional water management, including groundwater (after the coming into force of the *Waterwet*) and waste water treatment. The water boards have the task of advising the provinces on the norms and environmental objectives, depending on the water body and the use.

Municipalities are responsible for urban water management, especially the gathering and transporting of waste water and rain water (based on the *Wet op de waterhuishouding* and later on based on the *Waterwet*). They also have a duty of care towards groundwater management in urban areas. Therefore, municipalities make a waste water plan (*rioleringsplan*) which is based on the *Wet milieubeheer*. Municipalities are also responsible for the regulation of discharges into the sewerage system (*Wet milieubeheer*, after the coming into force of the *Waterwet*).

With all these national, regional (provincial) and water board plans together, the RBMPs and the PoMs will be implemented in Dutch water law.

After the entry into force of the *Waterwet* in 2009, there will only be one 'water licence' for all activities with an impact on the water system. Competent authorities are the Minister of TPW (for larger waters) and the regional water boards for all activities with an impact on regional waters. Only permits for larger groundwater abstractions will be dealt with by the provinces (*gedeputeerde staten*). Municipalities are responsible for discharges into the sewerage system and individual regulation takes place in a licence based on the Wm.

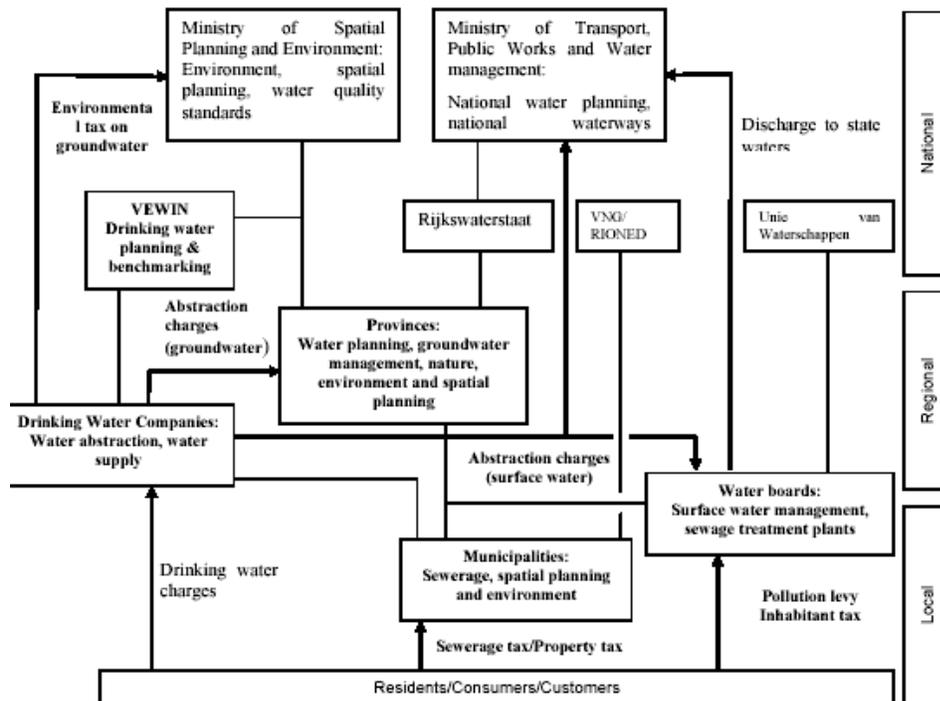


Figure 1: The organisational framework in the Netherlands (source: Euromarket 2004)

Germany/North Rhine-Westphalia

Authorities

There are no authorities with executive powers that have specifically been assigned for the overall management of each of the ten River Basin Districts. The Minister of Environment is the competent authority who reports to the EC. Furthermore, the following competent authorities (*Maßnahmentrager*) can be distinguished.

The federal government is responsible for the management of national waterways (§ 7 Bundeswasserstraßengesetz). At the level of the *Länder*, the competent authority is designated by the law of the *Land* (§ 26 (1) WHG). Several authorities can be distinguished:

- the supreme water authority (*oberste Wasserbehörde*);
- the high water authority (*obere Wasserbehörde*) and
- the lower water authority (*untere Wasserbehörde*).

In North Rhine-Westphalia, the oberste Wasserbehörde is the Ministry for the environment (*Ministerium für Umwelt und Naturschutz, Landwirtschaft und Verbraucherschutz*). The obere Wasserbehörde is the *Bezirksregierung*. The untere Wasserbehörde is the *Kreis* or the *kreisfreie Stadt* (§ 136 LWG).

Competences

The oberste Wasserbehörde is responsible for the management of the main water bodies (such as the Ruhr, Lippe, Sieg and Ems) (§ 91 (1) 1 in conjunction with Anlage 2 I LWG). It formally determines the RBMPs and programmes of measures (§ 2d LWG). The obere Wasserbehörde is competent for large constructions such as water treatment plants.

The untere Wasserbehörden are responsible for everything else. Specific implementation occurs here. Municipalities (*Kommunen*) are subordinate to the untere Wasserbehörden. A *Kommune* can either be a *Stadt* (when it is a town) or a *Gemeinde* (when it is a village) or a *Kreis*. Tasks that cannot be well managed by the often small *Gemeinden* or smaller towns, are administered by the *Kreise* (counties), which are also *Kommunen*. The greater towns do not belong to a county (*kreisfreie Städte*). Municipalities in Germany have a double character and twofold tasks. On the one hand, they administrate their own interests and local tasks (*kommunale Selbstverwaltung*). On the other hand, they function as lower *Land* authorities, e.g. with regard to nature conservation or water management. If they act in this field of *Land administration* and law, they are bound by the instructions of the higher state authorities, the *Bezirksregierung* and the ministry. In North Rhine-Westphalia, both *obere* and *untere Wasserbehörde* give contracts to the water boards (*Wasserverbände*) to do the operational work of measures in water. The water boards are artificial persons in public law and each water board has its own Act by which it is founded and which attributes competences to it. It is for instance the task of the Eifel-Rur water board to return the surface water bodies in its area to their near natural state (§ 2 (1) 3 Eifel-Rur-Verbandgesetz). Water boards can differ considerably in size. The water boards are arranged according to sub-basins. Their members are, amongst others, *Kommunen*, *Kreise* and industry (Interview).

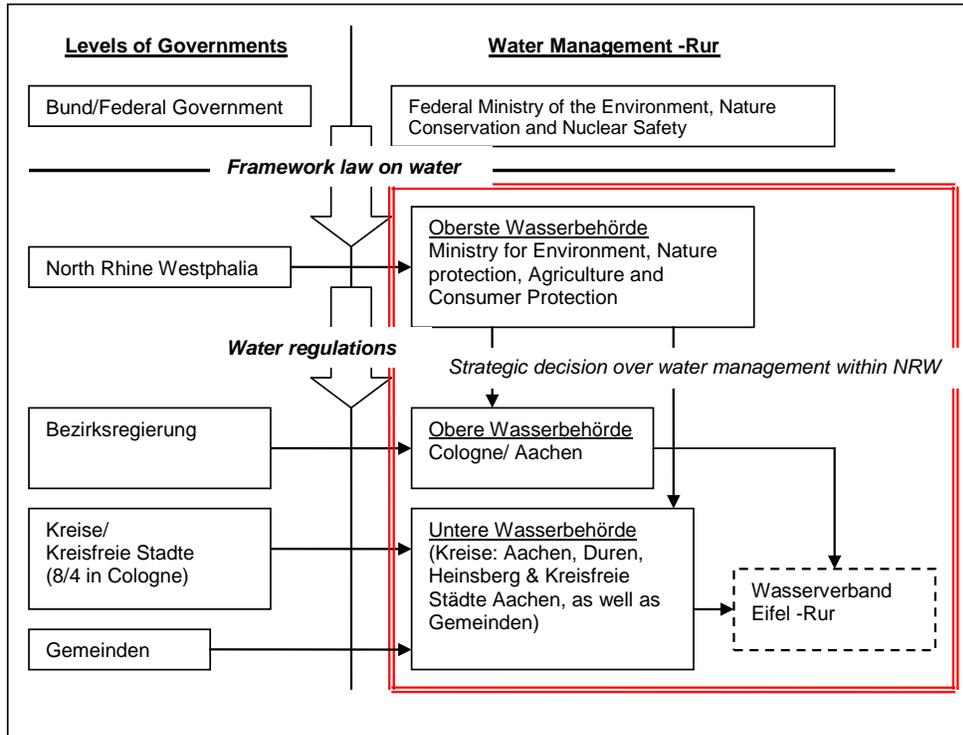


Figure 2: Water Management in NRW – relevant authorities

England and Wales

Authorities

The so-called 'appropriate authorities' have ultimate responsibility for the implementation of the WFD in England and Wales. The appropriate authorities are the Secretary of State of Defra (for England) and the Welsh Assembly Government (for Wales) (Article 2(1) Regulations). They must exercise their relevant functions so as to ensure compliance with the requirements of the Directive (Article 3(1) Regulations). For further implementation, the Competent Authorities – as mentioned in Article 3(2) WFD – are designated. For England and Wales the Competent Authority is the Environment Agency (Written Ministerial Statement of 11 December 2003 to announce transposition of the WFD), a non-departmental public body.

Competences

For each RBD, the Environment Agency must prepare and submit an RBMP (Article 11(1) Regulations) and a PoM (Article 10 (1) Regulations) to the appropriate authority for approval. In addition, sub-basin plans (called 'supplementary plans') may be prepared by the Environment Agency (Article 16 (1) Regulations). The appropriate authority then decides if the plan and its environmental objectives and PoM are

approved or (partly) rejected (Articles 14(1) and 10(3) and (4) Regulations). If approved, all public bodies must take the RBMP and any sub-plan into consideration (Article 17 Regulations). Moreover, the appropriate authorities must secure that the PoMs are coordinated for each RBD (Article 3 (2) Regulations).

The Environment Agency is responsible for meeting the water quality requirements of the WFD on the national level (Questionnaire England & Wales), by monitoring the water environment, licensing abstractions, discharges and other uses of the water environment and ensuring compliance.¹² The Environment Agency is in turn answerable to the Ministers and hence to Parliament.¹³

It is the competence of the Environment Agency to issue licences for water abstractions and discharges (Article 2 (1) (a) Environment Act 1995, in conjunction with Article 2 (1) Water Resources Act 1991).

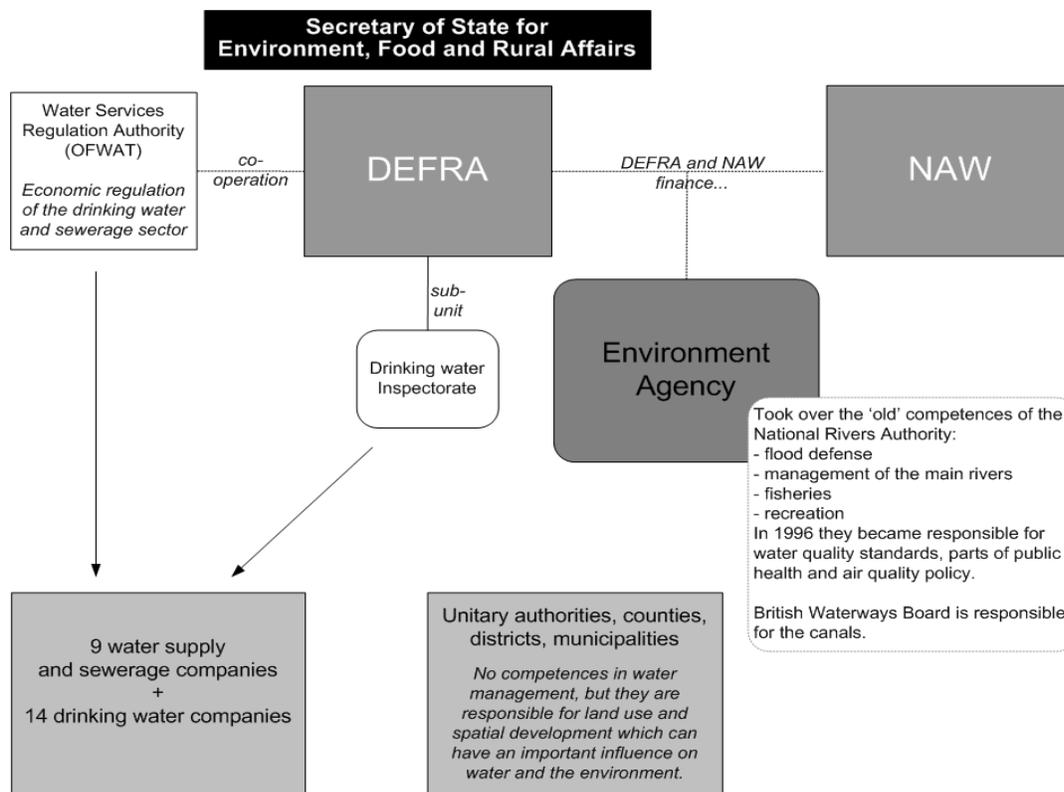


Figure 3: Water Management in England and Wales

¹² Responsibility under the Water Resources Act 199 and the Environment Act 1995.

¹³ The Environment Act 1995 set up the Agency and established its powers and functions.

France

Authorities

At the national level, the Ministry of Environment (*Ministère chargé de l'environnement*) organises the state policy in the water domain in general (Décret 2007-995 of 31 May 2007 and Décret 2000-426 of 19 May 2000). At the level of the river basins, the river basin coordinator (*préfet coordonnateur de bassin*) coordinates the actions of the prefects of the regions and the departments (Article R213-14 CE). In the text of the CE, no link is made with the Competent Authority of the WFD.

Competences

The water agency (*agence de l'eau*) is the executive body for the decisions taken by the river basin committee. The river basin committee (*comité de bassin*) adopts the RBMPs. These need approval from the river basin coordinator (Article R213-4 CE). The river basin coordinator also draws up the PoM, which must consequently be approved by the river basin committee (Articles L212-2-1, R212-19, R212-20 and R212-21 CE). The sub-plans are normally determined by the state representative in each department (*préfet de département*, hereinafter referred to as the prefect) (Article L212-3 CE).

The administrative supervision of the water courses is the responsibility of the prefects in each department and the mayors (Article L215-7 CE).¹⁴ The prefects are competent to give permission in the water domain (such as classified installations).¹⁵ The mayors issue construction permits and ensure the prevention of pollution at the local level (Questionnaire France).

¹⁴ The article of the CE refers to the 'administrative authorities'. In French water law, this refers to the prefects and the mayors (Questionnaire France).

¹⁵ Amongst other installations mentioned in Article R 214-1 CE.

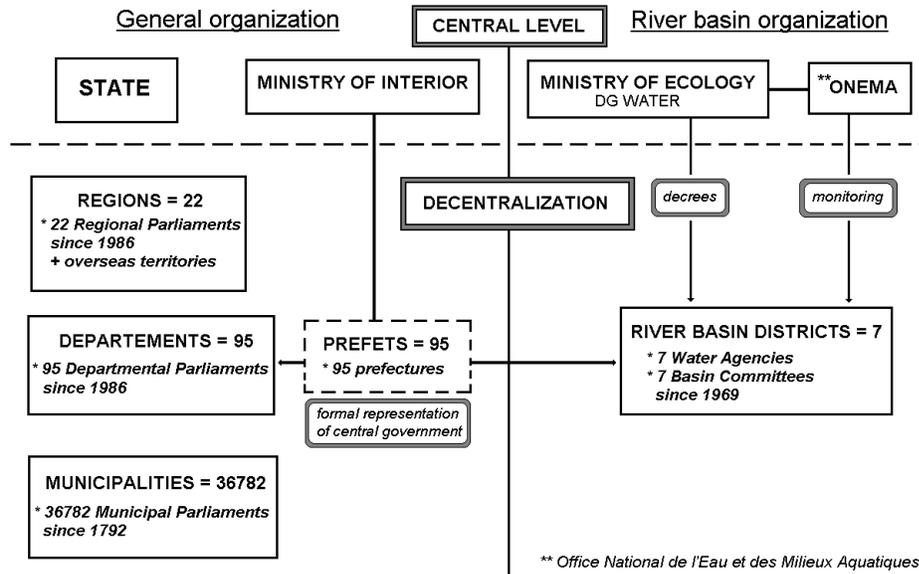


Figure 4: Institutions involved in Water Management in France

Denmark

Authorities

In Denmark, there are only two administrative levels regarding water management: the State (the Ministry of Environment and its agencies and local centres) and the 100 Local Councils (municipalities). These are the main actors in the WFD implementation. The regional level has very little power. They can become involved in the process as coordinators if required by the municipalities, but no real power is granted (Dubois 2007).

The Ministry of Environment is installed as the competent authority for the Danish RBDs (§2 (3) MML). Since May 2007, the Ministry of Environment has one more major agency next to the Agency of Forest and Nature and Environmental Protection Agency which is the Agency for Environmental and Spatial Planning (DG Water 2008). Seven Environmental Centres have been created under this new Agency, which are divided over the four RBDs.

Competences

The Ministry of Environment proposes and adopts the RBMPs (*vandplan*) (§ 28 (1) & (3) MML) and the PoMs. This competence has been delegated to the Agency for Spatial and Environmental Planning (Questionnaire Denmark). The RBMPs are prepared by the Environment Centres. In making an RBMP, collaboration between several Environment Centres is necessary. Each RBMP will be made based on sub-basin plans. The affected

state, regional and municipal authorities can object to the proposed RBMP within a set deadline (§ 28 (2) MML). The plan will consist of environmental objectives and suggestions for a programme of measures. The municipalities draw up the Municipal Action Plan. These action plans should clarify how the RBMP and its PoM will be realised within the municipality's territory (§ 31a MML). These plans should be adopted within one year after the RBMP has been published (§ 31c MML). The PoM must ensure the fulfilment of the objectives of the RBMP (§ 24 MML). The main responsibility for municipalities is to make sure that the objectives set at the Environment Centre level are achieved. Municipalities issue permits in the field of water (Interview).

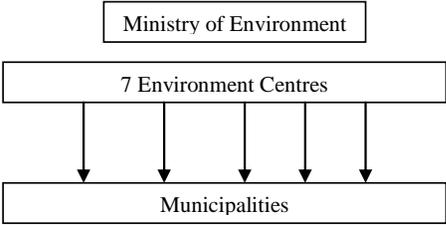
Level of Governance	Water Management Authorities	Competence Related to WFD Implementation
Central	 <pre> graph TD A[Ministry of Environment] --> B[7 Environment Centres] B --> C[Municipalities] </pre>	RBMPs Sub-Plans Programme of measures
Decentral		Implementation of measures through Municipal Action Plan

Figure 5: Water Management and relevant authorities in Denmark

Belgium/Flanders

Authorities

In general, the following authorities are responsible for water management in Flanders:

The government of the Flemish region is responsible for the management of navigable waterways. Competences in the management of non-navigable watercourses are allocated based on a legal division between non-navigable watercourses of several categories.

Specifically in relation to the WFD, other authorities are important:

Flemish legislation deals with RBDs in their international context. It states that the International Scheldt Commission is appointed as the competent authority for the RBDs of the Scheldt, the IJzer and the Brugse Polders (Article 19 (1), (3) and (4) DIW). The International Meuse Commission is appointed as the competent authority for the RBD of

the Meuse (Article 19 (2) DIW). The Flemish government functions formally as a backup actor (see the next section on competences and Article 19 DIW).

Moreover, the DIW determines that the establishment of a Coordination Commission on Integrated Water Management is the task of the organizational level of the Flemish region. The Coordination Commission on Integrated Water Management is responsible for the preparation, planning, supervision and follow-up of integrated water management in Flanders. The Coordination Commission on Integrated Water Management gathers together all competent actors in water management, including public servants from the agriculture and spatial planning departments. By institutionalising a multi-level and multi-sector platform, internal and external integration are positively stimulated.

For each of the sub-RBDs, a basin council, a basin executive and a basin secretariat have been introduced. The basin executive is the policy-orientated decision-making body. It is composed of representatives of the Flemish region, one representative from each province wholly or partly situated in the geographical area of the basin and one representative from each sub-basin of the basin.

In each of the sub-sub-RBDs, a district water board (called *waterschap*) is to be established at the initiative of the province. The Flemish water board is a form of cooperation without legal personality between the representative of the Flemish region, the province or provinces, the municipalities and the *polders* and *wateringen* situated on the territory of the sub-basin.

Competences

Formally, the competent authorities must determine the RBMPs (Article 19 DIW). Only if they cannot determine joint RBMPs for the international RBDs will the Flemish government determine RBMPs for the Flemish parts of the RBDs (Articles 22 (2) and 33 DIW). The RBMPs must be determined by 22 December 2009 at the latest (Article 34 (1) DIW). The Flemish government is also responsible for determining PoMs for each RBD or one PoM for the entire Flemish territory (Article 64 DIW). PoMs must be determined by 22 December 2009 at the latest and must be reviewed and updated every six years; their measures must be introduced at the latest three years after the PoMs have been determined (Article 66 DIW).

The basin executive approves the basin management plans prepared by the basin secretariat and gives advice on the draft river basin management plans. Although the basin management plans are approved by the basin executive, these plans have to be adopted by the Flemish government. This act of adoption is a kind of (political) supervision (Questionnaire).

The main task of the water board is to draw up a draft sub-sub-RBMP and to advise on the draft sub-RBMP. The sub-sub-RBMPs are integrated in the sub-RBMP of the relevant sub-RBD (Questionnaire).

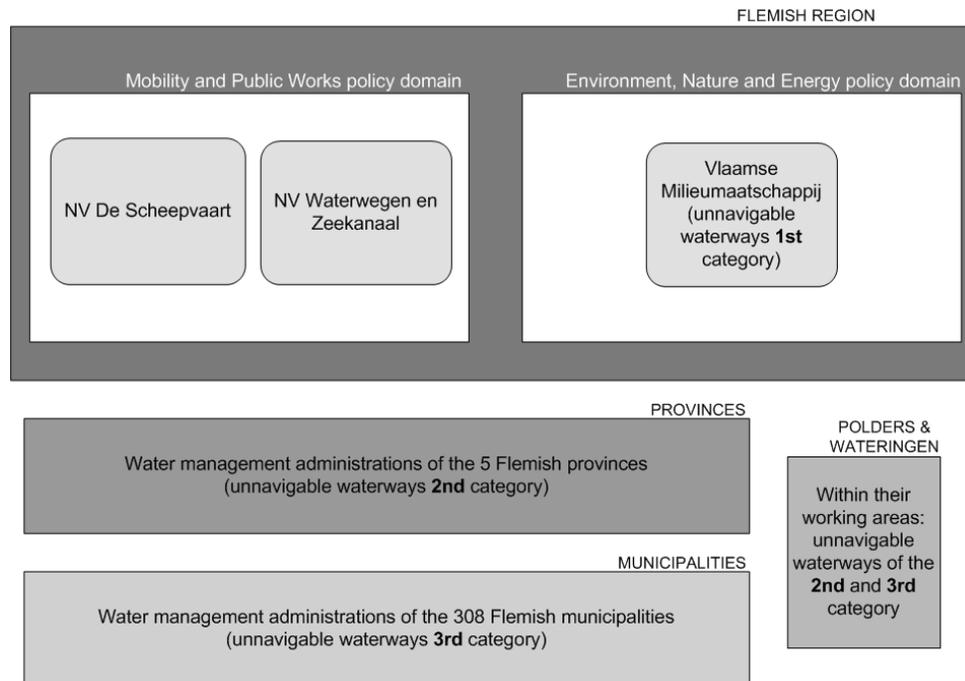


Figure 6: Water Management and relevant actors in Flanders

Level	Dialogue platform	Plan
International river basin district	International commissions (for Scheldt and Meuse)	International river basin district management plans
Flanders	Coordination Commission for Integrated Water Management	Flemish parts of the international river basin district management plans
		Water policy plan (<i>waterbeleidsnota</i>)
Sub river basin	Sub river basin authorities (<i>bekkenbestuur, bekkentraad, bekkensecretariaat</i>)	Sub river basin management plans
Sub sub river basin	Water boards (<i>waterschappen</i>)	Sub sub river basin management plans

Table 1: Structure and planning of the integrated water policy at different levels (Source: CIW 2007)

2.5 Conclusions

Main Problems

Every Member State studied here has mentioned diffuse nutrient input into water bodies (mainly from agricultural activities) as one of the main problems facing them with regard to reaching the WFD objectives. At the same time, hydromorphological alteration is also mentioned as one of the main pressures. Although the selected countries are all known to have considerable alteration to their hydromorphology due to intensive land use for agriculture as well as high population density, the Netherlands preliminarily designated a significantly higher percentage of water bodies as HMWBs (this will also be discussed in the case studies and comparison in the following chapters). In preliminarily designating its water bodies for the purpose of Article 5 (Characterisation of the river basin district), the Netherlands designated 95% of its water bodies as HMWB or AWB. This percentage is considerably higher than other countries, and is followed by Belgium with 53%. The original designation in other countries varies from 10% to 38% (the designation of water bodies in North Rhine-Westphalia was altered from 27% AW and HMWB at first to 60% a few years later. It is remarkable that the Netherlands has exceptionally large quantities of AWBs. When looking at only the HMWBs, the percentage of the HMWBs in the Netherlands is close to that of Belgium and the UK. The designation of water bodies as HMWB or AWB is usually contested by NGOs, even in Denmark, which designated less than 10% of its waters as HMWB or AWB. This is because once a surface water body is designated as HMWB or AWB it is exempt from the objective to reach 'good ecological status' and can aim for 'good ecological potential' instead.

Transposition

The option of issuing laws purely for the implementation of the WFD was chosen in England and Wales. In Germany, France and the Netherlands, the existing water legislation was amended in order to transpose the WFD. In the Netherlands, it is expected that in September 2009 a new, integrated water management act (*Waterwet*) will come into force which will incorporate the implementation legislation following from the WFD. Denmark has adopted a unique method by developing the MML which not only transposes the WFD but also the Habitats Directive. Belgium has newly developed the DIW at the time of transposition, but the initiation started earlier than the adoption of the WFD.

Organisational Framework

Most countries have opted for the national (central) state (the Netherlands, England and Wales, Denmark) to take the lead in the River Basin Districts (RBDs) that exist within their administrative borders. In Germany, most of the relevant competences are allocated at the *Länder* (i.e.: not the federal) level. In France, Germany, the Netherlands, England & Wales and Denmark, no new organizational structures were introduced by the WFD. These countries are using existing structures. As an exception, in Flanders a

new authority has been created called the Coordination Commission on Integrated Water Management which is responsible for the two RBDs that exist within its territory.

References

Andersen, M. S. (1997), Denmark: the shadow of the green majority. European Environmental Policy: The Pioneers. M. S. Andersen and D. Liefferink. Manchester, Manchester University Press

Backes, Ch.W., R.L. Kruijt en H.F.M.W. van Rijswijk (2007), Nieuwe mogelijkheden tot regulering van waterkwaliteitseisen in Nederland, Utrecht: Centrum voor Omgevingsrecht, Universiteit Utrecht

Bohne, E. (ed.) (2005), Tagungsband Ansätze zur Kodifikation des Umweltrechts in der Europäischen Union: Die Wasserrahmenrichtlinie und ihre Umsetzung in nationales recht, Schriftenreihe der Hochschule Speyer, Band 169, Duncker & Humblot, Berlin

Borchardt, D., U. Bosenius, et al. (2005), Water Framework Directive - Summary of River Basin District Analysis 2004 in Germany, Environmental Policy. S. Richter and V. Mohaupt, Federal Ministry for the Environment, Nature Conservation and Nuclear Safety

De Heer, J., Nijwening, S., De Vuyst, S., Smit, T., Groenendijk, J. and Rijswijk, H.F.M.W. van, (2004a), Towards Integrated Water Legislation in the Netherlands, Lessons from other countries, The Hague: Ministerie van Verkeer en Waterstaat/RIZA 2004

De Heer, J., Nijwening, S., De Vuyst, S., Smit, T., Groenendijk, J. and Rijswijk, H.F.M.W. van, (2004b), Towards Integrated Water Legislation in the Netherlands, Lessons from other countries, Case study reports, The Hague: Ministerie van Verkeer en Waterstaat/RIZA, 2004

DG Water (2008), Leren van waterbeheer - International vergelijking bestuurlijk organisatie waterbeheer - Tussenrapportage II, Ministerie van Verkeer en Waterstaat, DG Water, LWD

Dørge, J. and J. Windolf (2003), Implementation of the Water Framework Directive - can we use models as a tool in integrated river basin management? International Journal River Basin Management 11(2): 165-171

EC (2007), Commission Staff Working Document - Accompanying document to the Communication from the Commission to the European Parliament and the Council,

Towards sustainable water management in the European Union - first stage in the implementation of the Water Framework Directive 2000/60/EC

Enemark, S. (2002), Land and Environmental Management in Denmark. Copenhagen, The Danish Association of Chartered Surveyors

Johnes, P. (2005), UK: Water Framework Directive implementation in six countries. WFD Implementation in a European Perspective -workshop report. KSLA

Ministerie van Verkeer en Waterstaat (2004), Karakterisering Nederlands Maastroomgebied; rapportage volgens artikel 5 van de kaderrichtlijn water (2000/60/EG)

NERI (2005), State of the Environment in Denmark 2005: Illustrated Summary, National Environmental Research Institute, Ministry of the Environment Denmark

Neuray, Jean-Francois (ed.) (2005), La directive 2000/60/CE du 23 octobre 2000 établissant un cadre pour une politique communautaire dans le domaine de l'eau, Droit européen, Droit interne - Droit compare, Bruyant, Bruxelles

Nielsen, K. (2004), Implementing the Water Framework Directive in Denmark. Nordic EU Water Framework Directive - Seminar, Tampere, Finland

Nielsen, K. (2005), Denmark: Water Framework Directive Implementation in 6 countries. WFD implementation in a European Perspective - a workshop report. KSLA

Questionnaire Flanders: A response to written questions by P. De Smedt and I. Larmuseau, Centre for Environmental Law, Ghent University

Siedler, Zeitler, and Dahme (2008), WHG, München, 35. Erg.lieferung, 6/2008, Vorb. WHG 5b provides an overview over the draft Umweltgesetzbuch as far as the water law is concerned

Tunstall, S. and C. Green (2003), From Listener to talker: the changing social role of the citizen in England and Wales. Work package 4 of the HarmoniCOP Project, Middlesex University Flood Hazard Research Centre

Van den Berg, J.T., A. van Hall en H.F.M.W. van Rijswick (2003), Waterstaats- en waterschapsrecht, studiepockets staats- en bestuursrecht nr. 26, Kluwer 2003

Van Rijswick, H.F.M.W. (2004), The Implementation of the Water Framework Directive in Dutch Law: a Slow but Steady Improvement, Journal for European Environmental and Planning Law, 3/2004, p. 218-227

Van Rijswick, H. (2003), *The Waterframework Directive, Implementation into German and Dutch Law*, CELP/NILOS, Utrecht