



## **Twinning Project - SR 2005/IB/EN/01 Capacity Building of the Directorate for Water**

between the Ministry of Agriculture, Forestry and Water Management of Serbia and the German Ministry for Environment, Nature Conservation and Nuclear Safety

### **Activity 1.3.2**

#### **Gap analysis of the existing legal framework in the water sector in Serbia**

Enclosed: - Table of Concordance from 2007-07-20  
(between EU Nitrate Directive and relevant Serbian legislation)

RTA: Claus Heuberger  
STE: Mr. Martin Kücke

#### **1. Method**

The STE reviewed the current water law and the current crop protection act (the law on pesticides and fertilizers was not suitable/available for this review). The STE and the RTA held several interviews with representatives of the Water Directorate and of the Directorate for Plant Protection. In addition both RTA and STE contacted Mr. Nenad Brkić from the project “Serbia Danube River Enterprise Pollution Reduction” (DREPR). This results were achieved in close cooperation with them. Both projects intend to keep so established cooperation in the future.

#### **2. Results**

As the result of the legal review a Table of Concordance between EU Nitrate Directive and relevant Serbian legislation was produced in English, see enclosed Table.

The presentation of the results will be part of the final report of the Activity 1.3.2 showing all tables of concordance for several relevant EU-Directives which are taken into consideration during project Activity 1.3.2.

EC Obligation	Implementation measures in Serbia: Notes, Comments
<p><b>Article 1</b></p> <p>Purpose</p> <p>Reducing <b>water pollution</b> caused or induced <b>by nitrates from agricultural sources</b> and prevent further such pollution</p> <p><b>Article 2</b> Definitions....</p>	<p>The Nitrate Directive has been passed by the EU council as a consequence of the observation in Europe that the nitrate concentration in numerous waters of the EU already exceeds the upper limit nitrate concentration of 50 mg NO<sub>3</sub>/L which is regulated in the Directive 79/440/EEG and the Directive 80/778/EEG and as a consequence of increasing nitrate concentrations in numerous ground and surface waters. These increasing nitrate concentrations are mostly related to excessive application of farmyard wastes from animal production and excessive use of fertilizers</p> <p>The Directive focuses on the protection of waters that are or can be used for human consumption and are or might be polluted by agricultural sources. These pollution sources might be (a) point pollution sources and (b) diffuse pollution.</p> <ul style="list-style-type: none"> <li>• Point pollution are leakages (e.g. from liquid manure tanks, liquid fertiliser tanks, cattle stables, greenhouse). They need to be regulated by adequate construction regulations (e.g. construction of farmyard and liquid manure tanks of a specific size (storage capacity of 6 month)).</li> <li>• Diffuse pollution arises from incorrect application of mineral fertilizers and manures in excessive amounts and in times outside the growth period.</li> </ul>
<p><b>Article 3 (1)</b> <b>Waters affected by pollution and waters which could be affected</b> by pollution if action pursuant Article 5 is not taken <b>shall be identified</b> by the Member States in accordance with Annex I.</p>	<p>It is recommended that the identification of affected waters is carried out by those Serbian Water Authorities which are in charge for the implementation of the Serbian water law and are responsible for the quality monitoring in Article 42 of the water law.</p>

<p><b>Article 3 (2)</b> Member States shall, within a two-year period following the notification of this Directive, designate as <b>vulnerable zones</b> all known areas of land in their territories <b>which drain into the waters identified according to paragraph 1 and which contribute to pollution</b>. They shall notify the Commission of this initial designation within six months. When any waters identified by a Member State in accordance with paragraph 1 are affected by pollution from waters from another Member State draining directly or indirectly in to them, the Member States whose waters are affected may notify the other Member States and the Commission of the relevant facts.</p>	<p><b>See Comment to Article 3(5)</b>  It is recommended that vulnerable zones should be designed by those Serbian water authorities or geohydrological authorities which are familiar with the geological and hydrological situation of Serbia. If separate vulnerable <u>zones</u> (nitrate sensitive zones) will be designated, then the action plan (according to Article 5(1) and Annex III) and the Codes of Good Agricultural Practice (CoGAP) (Article 4(1)a) will be mandatory for all vulnerable zones, while the CoGAP is voluntary in the rest of the state.</p>
<p><b>Article 3(4)</b> Member States shall review if necessary revise or add to the designation of vulnerable zones as appropriate, and at last every four years, to take into account changes and factors unforeseen at the time of the previous designation. They shall notify the Commission of any revision or addition to the designations within six months.</p>	<p>It is recommended that Review and Revision of vulnerable zones is done by those Serbian authorities that have designated the zones <b>(see comment to Article 3(5))</b>. No review and revision is necessary if the whole Serbian territory is designated as vulnerable zone.</p>

<p><b>Article 3 (5).</b> Member States shall be <b>exempt from the obligation to identify specific vulnerable zones, if they establish and apply action programmes referred to in Article 5 in accordance with this Directive throughout their national territory.</b></p>	<p><b>See Comment to Article 3(2)</b>          If Serbia declares its whole national territory as vulnerable zone, no specific vulnerable zones need to be identified. In that case, all measures of the action programme and the CoGAP are mandatory for all the whole country. All regulations are mandatory for farmers in the territory and not only in the vulnerable zones.          It is recommended that the declaration of specific vulnerable zones or the declaration of the territory of Serbia as a vulnerable zone is done by adapting the Serbian Water Law (Art. 6)</p>
<p><b>Article 4 1.</b> With the aim of providing for all waters a general level of protection against pollution, Member States shall, within a <b>two-year period following the notification of this Directive:</b></p> <p>a) establish <b>a code or codes of good agricultural practice</b>, to be implemented by farmers <b>on a voluntary basis</b>, which should contain provisions covering at least the items mentioned in Annex II A;</p> <p>(b) set up where necessary a programme, including the provision of <b>training and information for farmers</b>, promoting the application of the code(s) of good agricultural practice.</p>	<p>A draft of a Code for Good Agricultural Practice (CoGAP) is drafted in 2007 by experts from the DREPR Project and will be finished in September 2007. If the CoGAP includes all requirements of the action programme according to ANNEX III and the minimal requirements for CoGAP according to Annex II A, it fulfils the requirements of the nitrate directive.</p> <p>According to ANNEX VI (List of Measures to be included in the programmes of measures) of the water framework directive, the CoGAP is part of the measures required in Article 11(4) of the water framework directive.</p> <p>Information and training programmes for farmers are intended by the DREPR-Project.</p>
<p><b>Article 4(2).</b> Member States shall submit to the Commission details of their codes of good agricultural practice and the Commission shall include information on these codes in the report referred to in Article 11. In the light of the information received, the Commission may, if it considers it necessary, make appropriate proposals to the Council.</p>	<p>This Article becomes relevant when Serbia joins the EU.</p>

<p><b>Article 5 (1).</b> Within a two-year period following the initial designation referred to in Article 3 (2) or within one year of each additional designation referred to in Article 3 (4), Member States shall, for the purpose of realizing the objectives specified in Article 1, <b>establish action programmes in respect of designated vulnerable zones.</b></p>	<p>As far as the Code of Good Agricultural Practice is implemented in the national legislation, the action programme is implemented.</p>
<p><b>Article 5(2).</b> An action programme may relate to all vulnerable zones in the territory of a Member State or, where the Member State considers it appropriate, different programmes may be established for different vulnerable zones or parts of zones.</p> <p><b>Article 5(3).</b> Action programmes shall take into account:</p> <p>(a) available scientific and technical data, mainly with reference to respective nitrogen contributions originating from agricultural and other sources;</p> <p>(b) environmental conditions in the relevant regions of the Member State concerned.</p>	<p>This is not necessary if the whole Serbian territory will be assigned as vulnerable zone.</p> <p>It is highly recommended that the action programme will be drafted and set into force in close cooperation of the responsible Serbian water authorities and the agricultural authorities.</p>
<p><b>Article 5(4).</b> Action programmes shall be implemented within four years of their establishment and shall consist of the following <b>mandatory measures</b>:</p> <p>(a) the measures <b>in Annex III</b>;</p> <p>(b) <b>those measures</b> which Member States have <b>prescribed in the code(s) of good agricultural practice established in accordance with Article 4</b>, except those which have been superseded by the measures in Annex III.</p>	<p>The major mandatory measures of ANNEX III:</p> <ul style="list-style-type: none"> <li>• Periods where land application of certain fertilizers is prohibited</li> <li>• Increasing the storage vessel capacity for livestock manure</li> <li>• Limitation of manure application to 170 kg N/ha (210 kg N/ha in the first 4 years of the action programme)</li> </ul> <p>Governmental financial support need to be taken into account if the mandatory construction of manure storage capacity is outside of the economic capacity of the farms.</p>

<p><b>Article 5(5).</b> Member States shall moreover <b>take...such additional measures</b> or reinforced actions as they consider necessary if, at the outset or in the light of experience gained in implementing the action programmes, <b>it becomes apparent that the measures referred to in paragraph 4 will not be sufficient</b> for achieving the objectives specified in Article 1. In selecting these measures or actions, Member States shall take into account their effectiveness and their cost relative to other possible preventive measures.</p>	<p><b>It is highly recommended that the CoGAP and the action programme is set into force by close cooperation and sharing responsibility of the water authorities and the Serbian agricultural authorities.</b></p>
<p><b>Article 5.6.</b> Member States shall <b>draw up and implement suitable monitoring programmes to assess the effectiveness of action programmes</b> established pursuant to this Article. <b>Member States which apply Article 5 throughout their national territory shall monitor the nitrate content of waters (surface waters and groundwater) at selected measuring points</b> which make it possible to establish the extent of nitrate pollution in the waters from agricultural sources.</p> <p><b>Article 5(7)</b> Member States shall <b>review and if necessary revise their action programmes</b>, including any additional measures taken pursuant to paragraph 5, <b>at least every four years</b>. They shall inform the Commission of any changes to the action programmes.</p>	<p>It is recommended that the monitoring programmes are carried out by those Serbian water authorities that will be responsible for the identification of polluted waters (see comment to Article 3(1)). It is also recommended that these authorities use the same sampling net which might be used for the quality monitoring within the Water Framework Directive.</p>

<p><b>Article 6 (1).</b> For the purpose of designating and revising the designation of vulnerable zones, Member States shall: <b>(a)</b> within two years of notification of the Directive, <b>monitor the nitrate concentration in freshwaters over a period of one year:</b></p> <p>(i) at <b>surface water sampling stations</b>, laid down in Article 5 (4) of Directive 75/440/EEC and/or at <b>other sampling stations which are representative of surface waters</b> of Member States, <b>at least monthly and more frequently during flood periods;</b></p> <p>(ii) at <b>sampling stations which are representative of the groundwater aquifers</b> of Member States, at regular intervals and taking into account the provisions of <b>Directive 80/778/EEC;</b></p> <p>(b) <b>repeat the monitoring programme outlined in (a) at least every four years</b>, except for those sampling stations where the nitrate concentration in all previous samples has been below 25 mg/l and no new factor likely to increase the nitrate content has appeared, in which case the monitoring programme need be repeated only every eight years;</p> <p>(c) <b>review the eutrophic state of their fresh surface waters, estuarial and coastal waters every four years.</b></p>	<p>It is recommended that the designation of suitable monitoring and sampling strategies will be in the responsibility of those authorities that will be in charge with setting Article 3.1 (see <b>comment to Article 3.1</b>)</p>
<p><b>Article 6(2).</b> The <b>reference methods</b> of measurement set out in <b>Annex IV</b> shall be used.</p>	<p>The analytical methods recommended for measuring nitrate in waters are simple and can easily be carried out by each standard laboratory or can be implemented in the laboratory easily.</p>

<p><b>Article 7</b> Guidelines for the monitoring referred to in Article 5 and 6 may be drawn up in accordance with the procedure laid down in Article 9.</p>	
<p><b>Article 8</b> The <b>Annexes</b> to this Directive <b>may be adapted to scientific and technical progress</b> in accordance with the procedure laid down in Article 9.</p>	<p>Suitable Serbian authorities need to be identified.</p>
<p><b>Article 9 (1).</b> The Commission shall be assisted by a Committee composed of the representative of the Member States and chaired by the representative of the Commission.</p> <p><b>2.</b> The representative of the Commission shall submit to the Commission a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the EEC Treaty in the case of decisions which the Council is required to adopt a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.</p> <p><b>3. (a)</b> The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.</p> <p><b>(b)</b> If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.</p> <p><b>(c)</b> If, on the expiry of a period of three months from the date</p>	<p>After the implementation of the Nitrate directive, EU member states have to send representatives to the regular meeting of the committee. Committee meetings are 2 – 4 times a year in Brussels.</p>

<p>of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission, save where the Council has decided against the said measures by a simple majority.</p>	
<p><b>Article 10 (1).</b> Member States shall, <b>in respect of the four-year period</b> following the notification of this Directive and in respect of each subsequent four-year period, <b>submit a report to the Commission containing the information outlined in Annex V.</b></p> <p><b>Article 10(2).</b> A report pursuant to this Article shall be submitted to the Commission within six months of the end of the period to which it relates.</p>	<p>Reports must contain monitoring results and evaluation of the effectiveness of the measures. Reports should be drafted by the responsible Serbian water and agricultural authorities in close cooperation.</p>
<p><b>Article 11</b> On the basis of the information received pursuant to Article 10, <b>the Commission shall publish summary reports within six months of receiving the reports from Member States</b> and shall communicate them to the European Parliament and to the Council. In the light of the implementation of the Directive, and in particular the provisions of Annex III, the Commission shall submit to the Council by 1 January 1998 a report accompanied where appropriate by proposals for revision of this Directive.</p>	<p>Not relevant at the moment, as Serbia is not yet an EU Member State.</p>

<p><b>Article 12 (1).</b> The Member States shall <b>bring into force the laws, regulations and administrative provisions necessary to comply with this Directive</b> within two years of its notification (1). They shall forthwith inform the Commission thereof.</p>	<p><b>It is recommended to bring the Nitrate Directive into force by adopting a suitable Serbian agricultural legislation (e.g. Law on Fertilizer) or a new agricultural law or a decree (Law or decree of Fertilization).</b></p>
<p><b>Article 12(2).</b> When Member States <b>adopt these measures</b>, they shall <b>contain a reference</b> to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.</p>	
<p><b>Article 12(3).</b> <b>Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.</b></p>	
<p>Article 13 This Directive is addressed to the Member States.</p>	

No national law could be identified which actually regulates components of the nitrate directive.

The implementation of vulnerable zones might be regulated by the Water Law in Article 6 by including a regulation ("The territory of the Republic of Serbia is a vulnerable zone in the meaning of the EU nitrate directive 91/676/EWG.")

Groundwater quality is regulated in Article 40 of the Water Law (groundwater of adequate quality), but not defined.

Drinking water quality is mentioned in Article 41 of the Water Law ("must not contain harmful substances in concentrations above the prescribed limits."). As the nitrate directive is based on the EU drinking water directive 80/778/EWG, the upper limit value for the nitrate concentration in drinking water is 50 mg nitrate per litre.

Article 42 requires regular quality testing of water for public supply and recreation.

Article 43 of the water law regulates the protection of "intentional and accidental pollution and other effects that can have an adverse influence of on the intake area yield and the water quality".