



Update Webpropol Questionnaire – interpretation and application of the Environmental Objectives in the EU’s Water Policy and Ruling C535/18 (2020) of the CJEU

Jussi Reinikainen

Common Forum

June 1, 2023 Stockholm



Suomen ympäristökeskus
Finlands miljöcentral
Finnish Environment Institute

Starting points

- **EU Court of Justice (CJEU) decision C-535/18 (2020) Land Nordrhein-Westfalen**
 - Request for a preliminary ruling from Bundesverwaltungsgericht (Federal Administrative Court, Germany)
 - Plan for construction of a motorway; discharging runoff into groundwater
 - Q: **What constitutes a deterioration of a groundwater body within the meaning of WFD** (Directive 2000/60/EC)?
- WFD environmental objectives for groundwater are binding
- Deterioration of the chemical status of a groundwater body means that:
 - At least one of the groundwater EQSs or threshold values is exceeded
 - Any subsequent increase in the concentration of a pollutant that already exceeds EQS or threshold value
 - Failure to comply with one quality element **at a single monitoring point** is sufficient for a finding that there is a deterioration of the status of a body of groundwater (!!!?)
- **Legal relevance of the environmental objectives of the WFD (art. 4) in relation to contaminated land and permitting new activities somewhat unclear...**

Environmental quality standards in the management of groundwater pollution

- **National project (funded by the Prime Minister's Office) studying**
 - How the groundwater quality standards and corresponding national limit values are applied and interpreted in the context of national regulations (incl. CLM) in the EU member states and Finland
 - How the CJEU's decision C-535/18 may/should affect the assessment of groundwater contamination in Finland
 - How the groundwater quality standards should be applied and does the CJEU's decision give rise to a need for revising the national legislation
- **WP1 (out of 3 WPs) relates to the application of the quality standards including the questionnaire**
 - Questionnaire sent to Common Forum and WG Groundwater
 - Webropol survey (online) with 9 questions
 - So far, answers from Austria, Flanders, Germany, Luxembourg, Netherlands, Portugal and Sweden (n = 7) + Denmark (answers to a few questions)

Initial results 1/2

- **Application of the quality standards**

- New activities (5/7), contaminated sites (6/7) and all groundwater/groundwater bodies (6/7)
- Other national GW quality standards also exist/applied (6/7)
- At defined/representative monitoring points according to national regulations/guidelines/permitting processes as part of WFD assessment and CL risk assessment, as thresholds for plume management, in Portugal application at GW body level etc.
- Links to national regulations and guidances -> great!
- Lots of national differences, difficult to interpret in a completely unambiguous way based on the responses (we may need to contact you/respondents personally...)

Initial results 2/2

- **Chemical assessment of GW bodies (according to WFD)**

- Due to contaminated sites, GW bodies classified as of poor chemical status or with increasing concentration trends (5 /7) due to various inorganic and organic pollutants
- Application of derogations from the objectives of the WFD, art. 4, points 5 or 7 (1 /6)

- **Effects of CJEU Decision C-535/18**

- No impact on national regulations (6 /7), but discussions have been taken place (5/7)
- Ongoing update of national guidelines taking into account the CJEU decision (1 /6)
- Potential practical challenges (4/7), including:
 - Definitions (representative monitoring points, when does CL result in poor GW status?); extension of the scope of the WFD (historical and local pollution), feasibility, GW impacts of road construction projects etc.

→ **For those only answered: thank you so much!**

→ **For the rest of you: please respond if you find the time (online, word, email etc.)**

TACK SÅ MYCKET!



Suomen ympäristökeskus
Finlands miljöcentral
Finnish Environment Institute