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Subject: Special Report No 23/2015 "Water quality in the Danube river basin:  
progress in implementing the water framework directive but still some way  
to go"

- Comments from delegations

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Following the WPE meeting on 17 February 2016, delegations will find in the Annex comments on the abovementioned report received from CZ, HU, RO and SK. The Report itself is available on the Court's website: <http://eca.europa.eu>.

**THE CZECH REPUBLIC**

The Czech Republic appreciates the release of the special report on water quality of the Danube River, however, a number of errors and inaccuracies have been found. CZ is aware that the report was compiled with information until July 2015 and it cannot therefore include newest data and findings. CZ will continue its efforts to address shortcomings identified by the report.

Between the first and the second RBMP cycles there were several significant changes in the Czech Republic. These include e.g. changes in delineation of sub-basins, changes in delineation of water bodies and its typology, changes (updates) in methodologies for status assessment which introduced stricter limits for water bodies status assessment. The first cycle's methodology for status assessment didn't contain any comparison with the reference conditions. Additionally, there were several changes of legislation. This led to the aforementioned update of the methodology. References for biological and physicochemical elements of the status assessment were set for the surface water bodies and EQS were determined for other substances. The second RBMP cycle's methodology for groundwater bodies status assessment was published by the Ministry of Environment and replaced the first RBMP's cycle methodology. The current methodology is based on the Water Framework Directive, Directive on the protection of groundwater against pollution and deterioration and related guidance documents.

Despite the long-term improvement of the surface water quality, the water bodies status has improved only moderately. This is due to the use of the „one-out, all-out“ principle in assessing water bodies (i.e., the worst status of the elements used in the assessment determines the final status of the water body). Justifications for the time extensions and less stringent environmental objectives are described in the RBMPs. All water bodies which didn't achieve good status by 2015 must be exempted even in cases where we presume achieving the good status by 2021. RBMPs were adopted by the Czech government on 21.12.2015. Therefore the criterion of the ex-ante conditionality 5.1: „Risk prevention and risk management“ and 6.1: „Water management“ were fulfilled.

**Page 19, par. 17:**

Both plans are not comparable as the water bodies were delineated and different approaches and methodologies were used in both cycles. This is mentioned also by the EC in the Report.

**Page 21, par. 36 + note21**

CZ focused on the fulfilment of the UWWTD, which recognizes the agglomerations above 2000PE.

Smaller agglomerations are according to their significance dealt with in the river basin management plans update from 2015.

**Page 23, par. 41**

Listed documents represent only an overview of GAEC instruments. Detailed description of the conditions, as well as the setting of their execution, are dealt with by a separate legislative act at the national level. A part of this setup also provides the public with the supporting information sources. In order to meet the requirements there is also a supervisory mechanism, and a system of sanctions. Regarding other additional requirements, the detailed information on specific questions can be provided. Measures under GAEC represent only one of the instruments against erosion.

**Page 25, par. 49**

At the national level, the ex-ante conditionality completely satisfied (December 21, 2015). The EC announced that it expects to send relevant documents proving compliance. The deadline for fulfilment of ex ante conditionality for OPE is set on 31 December 2016. Meanwhile CZ informed the Commission about approval of the plans by sending a letter to EC.

**Page 30, note below the graph**

WWTP Prague - is not found in the Danube basin. Given the focus of the report (water quality in the Danube river basin) it should not be based on data from areas which are not located within the Danube river basin. This comment was already raised at the WPE meeting on February 17, the response of ECA was taken into account but is deemed insufficient.

**Page 37, par. 98**

There is ongoing work on changes in legislation in order to also strengthen the limits for charging to be more stringent than the limits in permits.

**Page 42, par. 109**

Negotiations within the EU Pilot (Nitrate Directive) in CZ are ongoing within the stated time frame. Currently, an explanatory reaction on another round of additional requirements was sent to the European Commission (as requested by DG ENVI). We assume that the explanation, as well as the following steps in the ongoing discussion, will lead to conciliation and conclusion of the whole process.

**Page 43, par. 115**

The whole territory of CZ is proclaimed the sensitive area according to the UWWTD, which sets very strict limits and is thus the best possible protection of waters from the pollution from the point sources under this directive.

**Page 51, par. 149**

The stated criticism is probably based on formal misunderstanding. Within the available funds both in the period 2004 - 2006, 2007 - 2013 and during the period 2014 – 2020, ecological farmers were receiving the support both in the area of crop farming (fruit, wine, vegetables and other crops on arable land - almost 100% of the area under promoted commitment of the Rural Development Programme, grasslands - more than 450 thousand ha, 50 % of the total area) as well as in the area of animal production (the possibility of meeting the additional conditions for subsidies through ecological animal production). At the same time there is a substantial preference for investment projects under RDP (modernization of agricultural production, diversification of agricultural activities etc.) submitted by the eco-farming operators. Land cultivated under ecological farming (as well as ecological agricultural bodies) is eligible for aid under the first pillar of the CAP (direct payments) and can draw some benefits in terms of meeting the requirements of "greening" of the CAP.

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## **HUNGARY**

Hungary – similarly to the written comments of Romania and the Commission’ reply – considers that the special report generally gives a realistic and correct evaluation about the state of art of the Hungarian implementation of the Water Framework and of other directives which were subject of the ECA survey. As it was also noticed by the Hungarian representative of the WPE meeting on 17<sup>th</sup> February, Hungary considers that mainly the latest information the ECA report used from the internet available documents (draft national river basin management plan) would have been useful to cross-check with the relevant countries ensuring the most up to date and correct interpretation.

Hungary also would like to strengthen the importance of the general observation of the report. The report – according to its aims – is concentrating on the short comings in reaching the aims of the WFD and reduction of pollution caused by waste water and agriculture on water bodies. However it is obvious from the report, that the member states were pursuing serious efforts to reach the aims of the river basin management plan. In Hungary in spite of the different deficiencies in reaching the aims of the Water Framework Directive and the River Basin Management Plan, the achieved results are also significant and encouraging.

The audit concludes, that the member states concerned were pursuing mainly the ‘basic measures’ in order to improve the water quality and there are only a few examples with regard ‘other basic’ and ‘supplementary measures’. Having regarded the relative underdeveloped state of the area in comparison to EU average, in our opinion, it has to take into account whether the missed measurement would not put disproportionate burden on the concerned member states.

The report is concentrating only a part of the water policy defined by the Water Framework Directive (surface water quality), thus weakening the integrated approach of the Water Framework Directive, which aims at keeping all water bodies in good quality status , and sustain it keeping in mind social and economic interests.

An example, in case of Hungary, the National Wastewater Treatment Program and the realisation of sewage system promotes mainly the improvement of groundwater quality, as earlier the wastewater was desiccated in to the soil, now as a result of the program – however in a cleaned state, and in a lesser extent – it increases load on the surface waters (as it was indicated in the 1<sup>st</sup> River Basin Management Plan).

In Hungary the drinking water supply originate in 95% from ground water. Most of the wells closed because bad water quality was caused by diffuse pollution due to waste water desiccation. It indicates a need for improving measures in case of ground water quality. However the result of such measurements can be noticed in ground water quality only after rather long time.

There are still significant deficiencies in the implementation of the monitoring programmes in Hungary, however we happily acknowledge, that the report admits the significant decrease of ‘grey’ (unknown quality) water bodies between the 1<sup>st</sup> and 2<sup>nd</sup> River Basin Management Plans. We would like to mention that at present there is a project in progress to eliminate deficiencies of the monitoring system.

In the comparison of the 4 inspected countries it is clear that Hungary puts great emphasis on the quality and reliability of the monitoring measurements and environmental status assessment, as the justification of the conclusions based on them is an important question. The premature and erroneous actions could lead to significant negative economic and social effects, and furthermore they can have environmental back draws. (We agree with the similar statement of the report.)

We draw attention, that apart from the „one out all out” principle prescribed in River Basin Management Plan other factors should be mentioned, which prevent the comparison of the changes in the status of different water bodies in the two planning periods. For example the partial changes in the delineation of different water bodies, the development of the status assessment methodology as well as the inclusion of several ‘grey’ water bodies and new parameters (mainly biological and priority substances) in status assessment. These contribute to the impression that the statistical result (which hides the details) gives a worse overall picture, without the real deterioration of the environmental status.

The closing of the ECA assessment was overlapped with the preparation of the 2<sup>nd</sup> River Basin Management Plan, thus in several cases statements were based on the temporary version of the 2<sup>nd</sup> Plan, and furthermore the countries could not take into consideration the proposals of the report in the preparation of the 2<sup>nd</sup> River Basin Management Plan.

As the countries concerned were not consulted about some parts of the assessment, there are some smaller inaccuracies, and some incorrect finding based on misunderstanding, or not in depth knowledge of data or information. We give or corrections in the followings.

**ad paragraph 74:**

ECA report: “The frequency of the checks carried out by public inspection bodies is not prescribed in the 4 Member States.”

Acc. to article 21 of the Gov. decree 72/1996. (V. 22.) Korm. on the exercise of the competence of water management authorities, chapter on “Water supervision activity”, the authority classifies water facilities into 4 different supervision categories in the course of the operating permit licensing procedure or of the inspection. (The rules of classification are detailed in the gov. decree.) The supervision category is to be included in the permit. Paragraph (6) of art. 21 prescribes the frequency of supervision for the water facilities classified into the different groups as follows:

category I: annual supervision

category II: biennial supervision

category III: quinquennial supervision

category IV: occasional supervision (at random or upon request or notification)

The authority conducts water supervision inspections on the basis of the “supervision plan” the contents of which are also set out in the decree.

Further, prescriptions on the frequency of public inspections of used and waste water discharges set out in paragraph (4) of art. 29 of Gov. decree 220/2004. (VII. 21.) Korm. on the rules of the protection of surface water quality were inserted into Ministerial decree 27/2005. (XII. 6.) KvVM by a modification in 2015. Modifications determine the frequency of public inspections in case of facilities with significant discharge. Paragraph (2) of art. 6/A of the ministerial decree prescribes the frequency of inspections including authority measurements/analyses as follows:

annual:

- facilities discharging list I. and II. substances or groups of substances
- facilities discharging priority and priority hazardous substances
- facilities subject to integrated environmental use permit

biennial:

- urban waste water treatment plants exceeding 100 000 p. e.
- facilities with a pollution reduction plan

Detailed rules of the conduction and the consequences of on-site inspections are set out in the Min. decree, practical aspects of conducting the inspections (including specific rules of the preparatory tasks, compilation and conduction of the sampling programs, as well as the inspection of urban waste water treatment plants) are prescribed in Ann. 2 of the decree.

As a consequence of the above we do not agree with the statement of the ECA report that the frequency of the checks carried out by public inspection bodies is not prescribed in HU.

#### **ad paragraph 92:**

ECA report: “There is no database in HU for water discharge permits issued for industrial companies not falling under the industrial emissions directive.”

The statement is not correct. All permits and decisions with environmental scope are stored and managed in the National Environmental Information System (OKIR), water discharge permits for industrial companies of all size accordingly.

#### **ad paragraph 97:**

ECA report: “In the case of indirect discharge, the fines are imposed by the operators of the urban waste water treatment plants.”

The statement is not correct. Acc. to paragraph (1) of art. 33 of Gov. decree 220/2004. (VII. 21.) Korm. on the rules of the protection of surface water quality: The authority for water protection assesses discharge fines under consideration of the proposal of the operator, and water pollution fines acc. to item 1 of Annex 2. Fines are imposed by 30 June of the year after the current year.

Putting it correctly fines for indirect discharge are imposed by the authority and considering the proposal of the operator of the treatment plant.

## **ROMANIA**

RO welcomes the special report on the implementation of the Water Framework Directive in the Danube river basin and considers that in general the situation in RO is well reflected in the text. Nevertheless, RO considers that for some technical details a consultation of the competent authorities before the adoption of the report would have led to a more accurate presentation of the situation and the progress achieved. RO have noticed for instance that some technical aspects have been misunderstood or misinterpreted. The most important comments by paragraphs are presented below.

### **Paragraphs 27 and 168**

Regarding the affirmation that the bodies with ecological status/potential that was ‘good or high’ only increased by a small percentage, RO agrees that the principle „one out-all out” doesn’t allow to identify progress at individual element. For RO, the reference period for data used is 2013. Thus, for 2015 the number of water bodies with good or high status is greater than the number for 2013. In addition, the decrease of percentage of bodies with „moderate”, „poor” or „bad” as reported in WISE system compared with the first Management Plan (MP) should be considered as progress.

### **Paragraph 28**

RO considers that the assessment of water bodies, even with low degree of confidence represents an effort as compared with situation where the lack of monitoring data has been considered as „unknown”. There are criteria for assessing the degree of confidence and thus it is possible to identify the progress made. RO has the intention to increase the degree of confidence by collecting each year a greater number of monitoring data. Besides, when the degree of confidence is low, the real situation may be hidden, but it doesn’t necessarily mean that that water body has a bad status.

### **Paragraph 31**

The parameters considered for assessing the water bodies have always been identified (there are no water bodies with unknown status). The information which the Court considered missing from the 2009 RBMP have been reported in WISE at water body level and the anthropic pressures/pollution sources (organic pollution, nutrients and priority substances pollution or pollution by other contaminants) and their impact have been identified. (See European Environmental Agency report no 8/2012 – „European waters — assessment of status and pressures”).

### **Paragraph 32, first indent**

The general observation of the Court is not applicable to RO because RO has reported in the RBMP for 2009 the discharged quantities of organic substances, nutrients, specific pollutants and priority substances for urban pollution sources, as well as for industrial pollution sources where relevant. On the other hand, the number of water bodies which don’t have a good status because of priority substances and/or specific pollutants is by far smaller than the number of water bodies which don’t have a good status because of organic substances and/or nutrients.



### **Paragraph 81, second indent and note 53**

In Romania, a charge/contribution for the substances discharged in surface water sources are applicable to all water users, no matter the status of the water body. The charge is applicable for each water user, under the authorization conditions. Penalties are applicable in case of exceedances to the limits set by authorization. The system of specific contributions for water management is established by the Emergency Ordinance 107/2002 for setting up of the National Administration „Romanian Waters”, as amended.

Regarding note 53: The discharge of the waste water into groundwater is forbidden, in accordance with Romanian policy to progressively reduce pollution of underground water and to prevent further pollution. Art. 20 of the Water Law 107/1996, as amended, provides conditions for injection into deep layers only for waters resulting from the operations of exploration and production of hydrocarbons, natural gas or liquefied petroleum or injection of small quantities of substances for scientific purposes for characterization and protection of groundwater.

### **Paragraph 105, box 2**

The information about RO is not accurate. The buffer strips (with grass or bushes) with 1-3 m width, in physical block of agricultural land is compulsory near rivers/lakes or at the slopes base, but this width is in addition to the width of protected zones for water courses/lakes which can be between 10-50 m, depending on the width river, type and destination of water source. In conclusion, the width of the buffer strips can be between 11 and 53 m.

### **Paragraph 108 and paragraph 187 third indent**

The limitation for phosphorus in fertilizers should take into account the intensity of agriculture, as well as the content of phosphorus in soil. For example, in Romania the phosphorus surplus is under the European limit, being negative (- 2 kg/ha), in accordance with Eurostat data and the agriculture intensity is low.

### **Paragraph 119, last indent**

The action program for the water protection against nitrates pollution from agricultural sources as approved in 2013, doesn't provide anymore for differentiated inspection of farms according to their size.

### **Paragraph 170**

RO considers that the ambition level was realistic, having in view that for 2015 the number of water bodies which achieved environmental objectives was correctly estimated in the first planning cycle (63.5% in first plan, as compared to 64% in 2015). This is an indication that the measures proposed for 2009-2015 were effective. It's true that most of the measures (over 80%) are basic measures, these are the most costly but they lead to the achieving of environmental objectives for the majority of water bodies. Using DPSIR analysis (driver-pressure-status-impact-measures/response) in cases where the basic measures were not sufficient, additional/supplementary measures were established for: human agglomerations (in particular for those smaller than 2.000 p.e. – point 36), industrial activities (including for the rehabilitation of contaminated sites and landfills – point 38) and agricultural activities (including for reducing pesticides pollution – point 41). In the second plan more information on measures and their effects were included as compared to first plan. The final version of River Basin Management Plans for 2016-2021 took into account these issues, as well as the public opinion after consultation sessions in 2015.

### **Paragraph 177**

The economic instrument used in RO for waste water discharge is „contribution for the receiving of waste water in water resource”, which is in line with polluter pays principle. Cost recovery is done based on contributions for receiving waste water in water resources under the limit of legal provisions (concentrations under the maximum admissible values). Penalties are applicable in accordance with art. 9 of the WFD, as incentive instruments within the framework of economic policy in water sector and are applicable for the exceedance of the maximum admissible concentrations.

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## **SLOVAKIA**

### **Page 18:**

Figure 1. It is not clear which draft of RBMP has been used. Based on the results in the Danube RBMP (SK) the 58,58% water bodies is in very good and good ecological status/potential, 35,31% WB in moderate ecological status/ecological potential (ES/EP) status and 9,4% in bad and pure ES/EP status. It should be mentioned somewhere between points 26 and 27 of the report that the confidence of the status assessment increased significantly especially in Slovakia

### **Page 19:**

Figure 2. Based on the results in the Danube RBMP (SK) 97.49 % of WB is in good chemical status and 2.51 % have not achieved good chemicals status (CHS). As in case of the ES/EP the increasing of confidence of the chemical status assessment should be mentioned.

### **Page 30**

Figure 5, (footnote): "For Slovakia separate data for Ntot and Ptot was not available. The data used corresponds to the load meeting the emission limits for one or both of the parameters." - this information is not relevant, since the Slovak Republic has provided the assessment of Urban Waste Water Treatment Plants for separate parameters (including Ntot and Ptot) within the Reporting Art.15 Urban Waste Water Treatment Directive (UWWTD) for the reference year 2008 in line with the requirements, although the transition period for Art. 5 UWWTD for the Slovak Republic ended on 31 December 2010.

### **Table 7 - Percentage of agricultural land designated as nitrate vulnerable as of 31.12.2014**

The area of the vulnerable areas in Slovakia listed in Table 7 is defined as 5%. According to our records, this should be increased to 6.3%. The discrepancy is not caused by actual spatial change in the vulnerable areas but is due to a more accurate (generalised) methodology applied. The first definition was executed to scale 1:50K, whereas much more detailed scale was used for generalising in GIS processing.

Furthermore, we think it will be very complicated to compare the data from 2009, 2015 and 2021 as changing the legislation already causes changes (failure) in the chemical status (e.g. when we include Hg in biota or when we will include other substances).