

EUREAU



European Union of National Associations of
Water Suppliers and Waste Water Services

Union Européenne des Associations
Nationales de Distributeurs d'Eau et de
Services d'Assainissement

EUREAU contribution to the Core Group focused on RDR Article 38 (SSG on WFD & Agriculture)

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A word about EUREAU

EUREAU is the European federation of national associations of drinking water suppliers and waste water services. Our members collectively provide sustainable water services to around 405 million European citizens. They reflect the full diversity of the European water services sector and represent both public and private operators. As the focus point of a European water network, EUREAU represents a unique concentration of technical, scientific and managerial knowledge and practical experience in water services.

EUREAU contribution to the CG on RDR Article 38 in brief

EUREAU participates in the core group work on Article 38 of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and would like to comment on its future application.

Article 38 of the Regulation is of particular interest to the water sector as it will assist in delivering the objectives of the Water Framework Directive (WFD). It will assist in protecting our raw material, i.e. water resources intended for drinking water supply purposes. From national experiences, rural development funds have demonstrated that they can support better management of water

resources. Therefore it will be important to build on these experiences and consider how these funds can even better contribute to triggering environmentally-friendly practices.

The following comments deliver the EUREAU's view on 3 issues :

- 1 - Voluntary versus compulsory measures;
- 2 - Types of measures eligible to Article 38 payments;
- 3 - Scope of the measures eligible to Article 38 payments.

EUREAU contribution to the CG on RDR Article 38

1. Voluntary versus compulsory measures

- There has been some discussion as to whether measures financed under Article 38 should be voluntary or compulsory.
- EUREAU supports the objective of Article 38 which is to support **compulsory** agri-environmental measures resulting from the implementation of the Water Framework Directive and leading to costs and income foregone.
- Article 38 concerns agri-environment payments. Article 39 also relates to agri-environment payments linked to agri-environmental commitments on a voluntary basis. The difference between Article 38 and Article 39 is therefore on the type of commitment. If Article 38 aimed at supporting voluntary commitments, this would only duplicate the objective of Article 39 which already aims at supporting such commitments.
- EUREAU also supports the compulsory character of Article 38 in order to ensure that there is a core set of measures delivered to reduce the qualitative and quantitative pressures on water resources ; in order to be efficient, those measures should not be limited to voluntary, and therefore sporadic, commitments, because water resources are related to large areas . These measures shall be quantifiable and assessable in terms of effects on and benefits to the aquatic environment. As a reminder, art. 38 supports are granted to agricultural areas included in river basin management plans (RBMP).

2. Scope of the measures eligible to Article 38 payments

- It is necessary to define the scope of the measures eligible to Article 38 payments.
- Annex VI of the WFD details the list of directives which were adopted prior to the WFD and have to be complied with as basic measures of the WFD. However Article 38 should not be used to finance backlogs of existing/past directives. Application of Article 38 should be forward-looking and the programmes of measures shall act as a building block for identifying the measures that should come under this Article.

- Article 38 should not systematically support the implementation of all basic measures of Annex VI of the WFD – in particular basic measures corresponding to a delayed implementation of the legislation by Member States (and possibly linked with infringement cases).
- In other words, how to avoid that rural development funds devoted to Article 38 are used by Member States to finance implementation of directives which should already have been implemented when the WFD entered into force?
- It might be relevant to replicate the conditions of Article 31 (meeting standards based on Community legislation) in Article 38, i.e. 'compulsory measures must be newly introduced in national legislation implementing Community law' and assuming that the wording is further improved in order to differentiate between the implementation in due course from delayed implementation of Community law.

The following table summarizes the different types of situation to be considered:

Directives	Types of measures	Eligibility to Article 38
Recent directives (WFD and afterwards)	Recent measures	Yes
Directives prior to WFD	Non recent measures	No
	Recent measures in respect of the requirements of a directive (e.g. new action plans linked with a new vulnerable zone)	Yes
	Recent measures linked with a late implementation of the requirements of a directive (and possible infringement case)	No

The date of adoption of the WFD, i.e. 2000 should be used as the reference to distinguish recent from non recent measures.

3. Types of measures eligible to Article 38 payments

- It is important to identify the scope of the measures and the question is whether Article 38 should support any type of measures or only relevant types of measures according to their costs and effectiveness.
- EUREAU would like to recall that Article 38 should be targeted at measures to reduce qualitative and quantitative pressures on the water resources with a view to implementing the Water Framework Directive. The measures should be forward-looking and funds should be targeted at:
 - Changing land use (e.g. from arable crops to grasslands, from irrigated crops to rain fed crops);
 - Managing the land overall to avoid loss of fertilisers and soils to water bodies; It will imply ensuring that pollution in the first instance is controlled at source and further improving farming practices so that diffuse pollution is progressively reduced (e.g. catch crops, nutrient balances).

Furthermore, the following issues need to be addressed:

- It might be worth considering the replication of Article 31 saying that the supported measures should impose new obligations or restrictions to farming practice which have a significant impact on typical farm operating costs and concern a significant number of farmers.
- Application of Article 38 should be limited to significant changes in farm management. It may be worth ensuring that Article 38 mainly deals with land use changes and significant quantifiable measures which go beyond what it might be reasonable to expect a farmer to carry out without a payment. There is a need to adequately target the funds and limit their scope, i.e. only a limited number of measures should be eligible on specific areas. Otherwise there is a risk of implicitly allowing a huge allocation of funds by Member States via Article 38 to measures for which such payments are not required. In view of the limited budget for rural development, it would indeed be then necessary to reduce the funds devoted to other policies in axis 2 and in other axes, which cannot be supported. There is a need to reach a balance of priorities.
- Although some Rural Development Programmes have been agreed, it would be necessary to discuss a review clause with the Member States to take the WFD further into account under the application of Article 38. The River Basin Management Plans and the Programmes of Measures will be established in 2009. They will therefore be a good basis to identify the measures to be funded under Article 38.
- EUREAU would further like to raise two important issues: According to the polluter pays principle, would it not be consistent to state that any payment related to Article 38 should be exceptional, temporary and degressive? And on the issue of degressivity, would it not be relevant to follow the Article 31 provisions, i.e. support shall be granted for a maximum duration of five years? Or should the maximum period be defined by Member States according to local and regional conditions? EUREAU is willing to further discuss these points with the relevant parties. It might be worth considering the last question in view of the timeframe of the WFD.