

The EU WATER FRAMEWORK DIRECTIVE
2000/60/EC OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL
of 23 October 2000
establishing a framework for Community action in the
field of water policy.

EUROPEAN
HERITAGE
HEADS
FORUM

Meeting of the EHHF

Bern, May 18-20. 2016

Terje Nypan
Member EHLF Secretariat
Directorate for Cultural Heritage, Norway

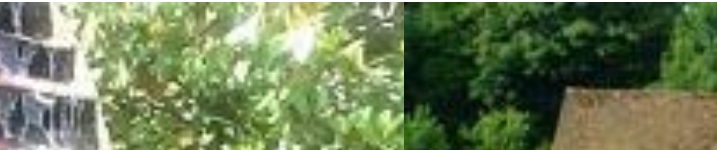


THE THREAT

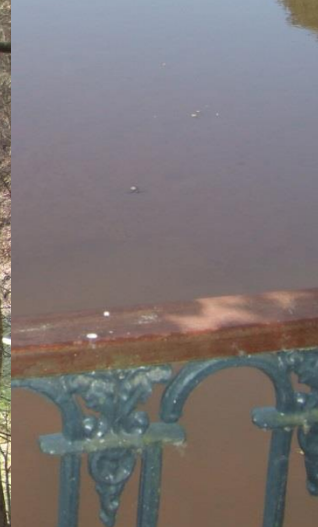
WHAT IS AT STAKE?

- Water mills. 6 000 in France
- Water castles. Number?
- Wind mills adjacent to water
- Other heritage constructions along or part of water courses
- Archaeology
- Historic parks and gardens with “modified” (non-natural) watercourses
- Solution?
 - Declaring all relevant water bodies as «Heavily modified water courses» to be able to discuss conservation of physical Cultural Heritage ?

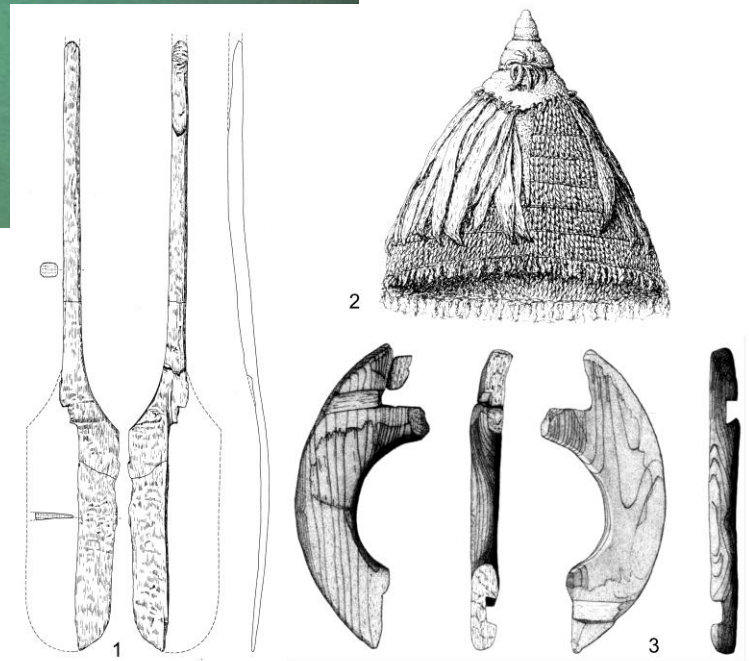








Mit einem Brief an das Wasserwirtschaftsamt schaltete sich V
batte ein. Geprüft werden soll nun, ob der Bach als Naturden





<http://ehhf.eu/news/eu-water-framework-directive-puts-watermills-risk>

Members from the Cultural Heritage Agency of the Netherlands raised in the European Heritage Legal Forum an issue concerning the EU Water Framework Directive.

The EHLF asked its member countries about experiences with the impact of the Water Framework Directive on cultural heritage. Many encountered difficulties. Also with preservation of watermills.

The Netherlands, Germany, Denmark, the United Kingdom, Belgium, France, Estonia, Norway and Sweden all reported concerns about the future of their water-based heritage.

Poland and Spain have legally solved the issue.



In France, the *'Federation of Associations for the safeguard of Mills'* opposes the programmed destruction of thousands of mills. **Mill owners currently appeal to the national representation to take into account a “cultural exception” in order to exempt mills from these excessive constraints which are jeopardising the cultural, touristic and historic heritage of France.**

To answer these protests, the **French Minister for Ecology**, Ségolène Royal, sent a letter to all the Prefects in December 2015 asking them not to concentrate their efforts anymore on constructions presenting a heritage value.

A participative procedure should from now on be encouraged between all stakeholders and the demolition or not of mill-weirs decided on a case-by-case basis.





The European Heritage Legal Forum works for an **“appropriate” legal formulation** which would not be detrimental to the **preservation of traditional systems** of using the water, **when no additional pollution ensues from this.**

The physical cultural heritage is an element of the environment just as water. The measures implemented at national level under the WFD which are detrimental to the physical cultural heritage are not in accordance with the (primary) intentions of the EU Commission.

We should look to **include revitalisation of cultural heritage along with revitalisation of river basins.**



So what did we do?

The Core Manuscript

- Core Manuscript for a letter to Commission (Directorate-General Environment) by each MS
- Who did send: Sweden, Norway, Germany, Croatia, Estonia, Slovenia, Hungary, Wallonia
- The answer letter
- Interpretation of the answer



THE LETTER - CONTENT SUMMARY

- Several EU Member States, including the **Netherlands, Germany, Denmark, the United Kingdom, Belgium, France, Estonia, and Sweden**, have reported similar problems.
- Thousands of historic watermills and other water-related heritage constructions in Europe have been destroyed or are about to be destroyed for the sake of the WFD.
- National legislations are not, so it seems from the feedback we get, able to equate and balance these two dimensions; i.e. environment / water and environment as physical cultural heritage
- We appeal to the **European Commission to clarify the situation with Member States and formulate an official guidance document expressing the EU's intentions as regards the preservation of cultural heritage along river basins.**

Adressed to the Directorate-General Environment. The full text of the Core Manuscript is at the end of the presentation.



European Commission
Directorate-General for Environment
B-1049 Brussels
BELGIUM

Date 2016-04-06

Reg.number 1.2.2-2292-2016

Stockholm, the 6th of April 2016

**Request for a public communication on the good implementation of
the Water Framework Directive nearby cultural heritage
constructions and activities**

To the attention of Mr. Calleja Crespo,

Several EU Member States, including the Netherlands, Germany, Denmark, the United Kingdom, Belgium, France, Estonia, and Sweden, have reported similar problems with the transposition of the EU Water Framework Directive¹ into

THE ANSWER

 Ref. Ares(2016)1867639 - 20/04/2016



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
Directorate C - Quality of Life, Water & Air
ENV.C.1 - Water

Brussels, 19. 04. 2016
PM/as/env.c.1(2016)2285990

Anita Bergensträhle-Lind
Swedish International Heritage Board
Riksantikvarieämbetet
Box 5405
SE-114 84 Stockholm
Sweden

Dear Ms Bergensträhle-Lind,

Subject: your letter of 6 April 2016 concerning a request for a public communication on the good implementation of the Water Framework Directive nearby cultural heritage constructions and activities

Thank you for your above-mentioned letter.

THE COMMISSION ANSWER

“Therefore, Article 4(3) WFD provides the mechanism for Member States to ensure that an appropriate balance between water protection and heritage can be found.”

“Article 4(3) of the WFD allows Member States to designate heavily modified water bodies if the conditions thereunder are met. This will mean that the water body concerned will not have to achieve the default objective of good ecological status, but good ecological potential.”

THE COMMISSION ANSWER

*“In the context of the Common Implementation Strategy (CIS) to which both your letter and the article from the European Heritage Heads Forum refers, **the relevant CIS guidance document refers to the notion of the wider environment as covering heritage.**”*

*“The CIS process supports the implementation of the WFD. See CIS Guidance (No 4), **Identification and Designation of Heavily Modified and Artificial Water Bodies**, sections 6.4.8 and 6.4.9.”*

All CIS Guidance Documents can be found on the following web site:

http://ec.europa.eu/environment/water/water-frameworkOrk/facts/figures/guidance_docs_en.htm

Consequences of the proposal from the Commission



- **For cultural heritage to be taken into consideration the water bodies in question must be designated by Member States as a heavily modified** water body as this changes the default objective from good ecological status to good ecological potential.
- National Heritage competent authorities will have to “negotiate” this with water competent authorities.
- In Germany many lower Water and Nature Administrative authorities state that the WFD and the so-called "Wasserhaushaltsgesetz (WHG)" does not make it necessary to follow the designation of the CH Protection laws of the Länder.
- Do we have capacity? Do we have competency? Do we have a mandate?

CONSEQUENCES

- **MOVING PUBLIC MANAGEMENT RESPONSIBILITY FOR CULTURAL HERITAGE ADMINISTRATION TO WATER MANAGEMENT AUTHORITY !!?**
- Declaring «Heavily modified water courses» will mean to work at national level and negotiate with water competent authorities to eventually change national classifications if necessary.
- Arguing based on **the notion of the wider environment as covering heritage.**
- Possible actions:
 - **Actions at national level (first and foremost)**
 - Meeting the EU Water Directors Board where the national representatives sit?
 - Relate the issue to the European Year of Cultural Heritage?

Thank you!

THE CORE MANUSCRIPT I



Request for a public communication on the good implementation of the Water Framework Directive nearby cultural heritage constructions and activities

To the attention of the European Commission,

Several EU Member States, including the **Netherlands, Germany, Denmark, the United Kingdom, Belgium, France, Estonia, and Sweden**, have reported similar problems with the transposition of the EU Water Framework Directive into national law. Some are experiencing the so-called gold plating of the Directive by national water bodies and other environmental agencies. Thousands of historic watermills and other water-related heritage constructions in Europe have been destroyed or are about to be destroyed for the sake of the WFD.

Under the River Basin Management Plan which aims for restoring the ecological continuity of rivers, namely allowing fish migration and sediment flow, most Member States have instructed their water bodies to implement mitigation measures against the obstruction of rivers. These measures, however, disregard the value of the physical cultural heritage and lack a cost-benefit analysis. The implementation of the WFD results in many cases in a conflict between water as a resource and physical cultural heritage as another resource. National legislations are not, so it seems from the feedback we get, able to equate and balance these two dimensions; i.e. environment / water and environment as physical cultural heritage. **This antagonistic conflict** leads to demands to close down watermills, windmills along watercourses, remove the water supply from water castles, as well as major changes to some landscaped historic gardens and cultural landscapes with their watercourses.

[Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy](#)

THE CORE MANUSCRIPT II

We believe that such measures are detrimental to the physical cultural heritage and are **not in accordance with the intentions of the European Commission**. First of all, the Guidance document to the WFD states that some measures to improve status of the watercourse may fall under the EIA (Environmental Impact Analysis Directive) and, in this case, the negative impact on cultural heritage must be a crucial consideration. If cultural heritage is considered an element of the environment it should not be affected negatively by the WFD and heritage professionals should be invited to **participate in the drawing up of river basin management plans** and help in finding appropriate solutions.

Second, in the light of the Common Implementation Strategy (CIS) for the Water Framework Directive, a closely coordinated and coherent implementation of both the WFD and the [EIA Directive \(85/337/EEC\)](#) Floods Directive is to be achieved. The EU Floods Directive clearly refers **to cultural heritage as one of the beneficiaries that is to be safeguarded**.

We shall see more conflicts concerning river basin management and existing physical cultural heritage in the near future as the time limit imposed by the Directive for reporting and setting new objectives has been derogated to 2027.

THE CORE MANUSCRIPT III

Considering the aforementioned legal provisions, as well as our conviction that traditional heritage systems using water streams are not associated with the current disruption to the ecological continuity of watercourses, we appeal to the **European Commission to clarify the situation with Member States and formulate an official guidance document expressing the EU's intentions as regards the preservation of cultural heritage along river basins.**

We thank you for your attention to this matter and look forward to a constructive outcome.

Yours faithfully,

[Directive 2007/60/EC on the assessment and management of flood risks](#)