



EFTA Surveillance Authority (ESA)

Your reference: Case No. 69544

Oslo, 5 October 2012

ADDITIONAL COMMENTS TO THE COMPLAINT AGAINST NORWAY – CONCERNING THE WATER FRAMEWORK DIRECTIVE AND ENVIRONMENTAL OBJECTIVES AND MEASURES IN REGULATED WATER COURSES

We hereby refer to Case No. 69544, our complaint of 10 March 2011, the Norwegian Ministry of the Environment's letter dated 31 May 2012 to ESA and the complainants' comments to this letter, dated 29 June 2012.

The Norwegian Association of Municipalities hosting Hydropower Plants (LVK) finds it necessary to submit some additional comments to the screening process, which is given an account in the Ministry's letter dated 31 May 2012. The screening project is now in progress, and in our view the project is not integrated with the processes and the procedures foreseen by the Water Framework Directive (WFD). By this we would like to inform ESA about our letter dated 20 September 2012 to the Ministry of Petroleum and Energy and the Ministry of the Environment, titled *Re national review of revisions* (attached, translated into English for this occasion), where our critical view of the screening process is submitted to the Ministries.

In the letter from ESA to the Ministry of the Environment, dated 22 of February, with several questions regarding the implementation of the WFD in heavily modified water bodies, the government is asked to explain *how this screening process integrates with the processes and procedures foreseen by the WFD* (question 2).

In the letter from the Ministry of the Environment, dated 31 May 2012, the screening process is described. The Ministry of the Environment says at page 9:

“The screening will be integrated in the water management planning. The regional river basin district authorities (there is 11 of them) will assess potential ecological improvements and which of the regulated watercourses that should be prioritized in the respective river basin district. The final priority will be made by national authorities, and will be useful in the regional river basin districts.”

As described in our attached letter dated 20 September 2012 to the Ministries, it is emphasised in the *mandate* for the national review that the project is linked to the regulations on revision in accordance with the Watercourse Regulation Act, and that the *proposals are not part of the planning process in accordance with the Water Regulations*. In a letter dated 26 June 2012 from NVE (the Norwegian Water Resources and Energy Directorate) to the regional water authorities it is made clear that the work is *independent* of the water regions' work:

"In particular we point out that this is an investigative project under the aegis of the central authorities associated with the regulations on revisions in accordance with the Watercourse Regulation Act, independent from, but parallel to the planning processes in accordance with the Water Regulations."

Thus we cannot see how the screening process integrates with the processes and procedures foreseen by the WFD. The Norwegian authorities clearly emphasise towards the local and regional water authorities that the screening process is *independent from and not a part of the planning process* in accordance with the Water Regulations.

In the letter dated 22 February 2012 to the government, ESA also asked how the process will take into account the notion of good ecological potential, as defines on the basis of the scientific and technical process foreseen by the WFD, and how this process will interface with the programmes of measures adopted at river basin level.

As described in our letter to the ministries, the national review and prioritisation is to be based on *existing knowledge and rough estimates*. It is not appropriate to prepare such a list of prioritised watercourses based on a rough and superficial examination as proposed here. Knowledge-based assessments should be undertaken by the regional water authorities in the course of preparation of the water management plans, on the basis of the scientific and technical process foreseen by the WFD. LVK therefore takes a critical view of the project being detached from the water management process and being finalised in May 2013, *before* the water management plans have been prepared.

The regional water authorities have been invited to provide input on which watercourses ought to be prioritised in the region by 1 October 2012 (postponed until 1 November). The water regions have asked the municipalities for local input. As described in our letter of 20 September to the Ministries, the water regions and municipalities have thus received far too short notice to be able to give responsible and qualified input to a prioritisation. Thoroughness and professional assessments will be required far beyond that for which this process allows. The politicians have been told that the input to the prioritisation are only technically, and not a subject to political procedures, neither local nor regional (cf an e-mail dated 28 September 2012 from the water region Glomma to the municipalities). LVK disagree, and emphasises that this review is an environmental matter of great significance to the watercourses and to the local communities involved, and the result of a prioritisation will have major impact for a range of parties with interests in the watercourses far into the future. This should be a subject for both the scientific and the democratic process foreseen by the WFD.

The national review is to be finished in May 2013, and appears to forestall the professional and democratic processes arranged through preparation of the water management plans. It is established as an independent process, and is not integrated with the processes and procedures foreseen by the WFD, neither scientifically, technically nor democratically.

Yours faithfully,

Landssamanslutninga av Vasskraftkommunar

The Norwegian Association of Municipalities hosting Hydropower Plants (LVK)



Børre Rønningen
Chair