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Case No: 96030
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Norwegian Ministry of Climate and Environment
Postboks 8013 Dep
N-0030 Oslo
Norway

Dear Sir/Madam,

Subject: Complaint against Norway concerning the determination of 'deterioration' within the meaning of the Water Framework Directive

On 18 May 2026, the EFTA Surveillance Authority ("the Authority") received a complaint against Norway concerning the determination of 'deterioration' within the meaning of 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 policy¹ ("the Water Framework Directive" or the "WFD").

According to the complainant, Norway is applying a standard for the determination of "deterioration" of a surface water body within the meaning of Article 4(1)(a)(i) of the Water Framework Directive ("WFD") that deviates from the standard of the WFD as interpreted by the Court of Justice of the European Union ("CJEU"). The complainant refers to the *Weser*² judgment, in which the CJEU held that:

[...] there is deterioration as soon as the status of at least one of the quality elements, within the meaning of Annex V to the directive, falls by one class, even if that fall does not result in a fall in classification of the body of surface water as a whole. However, if the quality element concerned, within the meaning of that annex, is already in the lowest class, any deterioration of that element constitutes a 'deterioration of the status' of a body of surface water, within the meaning of Article 4(1)(a)(i).³

The complainant also refers to the judgment in *Association France Nature Environnement*,⁴ in which the CJEU held that

"[...] Article 4 [WFD] must be interpreted as requiring Member States, when they assess the compatibility of a particular programme or project with the objective of preventing the deterioration of water quality, to take into account temporary, short-term impacts which are without lasting consequences, unless it is clear that such impacts have, by their nature, little effect on the status of the bodies of water concerned and cannot lead to a 'deterioration' of that status, within the meaning of that provision. Where, as part of the authorisation procedure for a programme or project, the competent national authorities determine that that programme or project could lead to such a deterioration, that programme or project may be authorised

¹ OJ L 327, 22.12.2000, p.1

² CJEU, Case 461/13, *Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland*, 1 July 2015, ECLI:EU:C:2015:433.

³ CJEU, Case 461/13, *Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland*, 1 July 2015, ECLI:EU:C:2015:433, paragraph 70.

⁴ CJEU, Case C-525/20, *Association France Nature Environnement v Premier Ministre, Ministre de la Transition écologique et solidaire*, 5 May 2022, ECLI:EU:C:2022:350.

only if the conditions set out in Article 4(7) of that directive are met, even if the deterioration is temporary in nature.”

The complainant claims that Norway applies an interpretation in which “deterioration” is only deemed to have occurred if the status of the water body falls from one status class to another, and where the deterioration is of a certain minimum duration. Consequently, the allegation is that the threshold for establishing deterioration in Norway is higher than that required by the WFD as interpreted by the CJEU.

In support of the claim, the complainant refers to a guidance document issued by the Ministry of Climate and Environment on 9 July 2021, entitled “*Veiledning til bruk av vannforskriften § 12 - med presisering*”.⁵

Under section 3.1, entitled “*What does deterioration mean?*,” the following is stated:

“In the Water Regulation, the ecological status is expressed in the classes high, good, moderate, poor, and bad. Only deterioration where the status moves from one class to another constitute a “deterioration” within the meaning of the provision, which entails that the activity must be assessed under Section 12.

[...]

The negative impact must be of a certain duration for it to be considered a “deterioration” within the meaning of the provision.”

The Authority’s Internal Market Affairs Directorate (“the Directorate”) is presently considering the merits of the complaint.

To facilitate the Directorate’s assessment, the Norwegian Government is kindly invited to provide its observations on the complaint. In particular, the Norwegian Government is invited to comment on the above citations from its guidance document, and whether it considers these to adequately reflect the requirements of Article 4 WFD as interpreted by the CJEU.

The Norwegian Government is invited to submit this information, as well as any other information it deems relevant to the case, so that it reaches the Authority by *13 July 2026*.

Yours faithfully,

Marco Uccelli
Deputy Director
Internal Market Affairs Directorate

This document has been electronically authenticated by Marco Uccelli.

⁵ Reference number 12/5671-.