Chapter 14
European Community Water Policy

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Abstract This chapter traces the development of the European Community water policy. Against a background of a sense that action was urgent, a formal environmental protection policy was ‘constitutionalized’ for the first time by the Single European Act (1986). Community water policy entered a new stage with the adoption of the Water Framework Directive (2000) and the subsequent establishment of the Common Implementation Strategy. These changes amount to a true paradigm-shift whereby Community water policy became functionally oriented towards sustainable development and meeting the expectations of European citizens.

Keywords Common Implementation Strategy · European Community · European Union · public · supranational · Water Framework Directive

14.1 Introduction

Although closely related, the European Community and the European Union do not coincide. The European Union results from the Treaty on European Union (Treaty of Maastricht 1992, as amended by the Treaty of Amsterdam 1997 and the Treaty of Nice 2001). Today, there are two European Communities: the European Community (successor to the European Economic Community) and the European Atomic Energy Community (EURATOM), which have the same Member States, currently 27—France, Germany, Italy, Belgium, Luxemburg, the Netherlands (the six founding Members); Great Britain, Denmark, Ireland (accession: 1973); Greece (accession: 1980); Portugal, Spain (accession: 1986); Austria, Finland, Sweden (accession: 1995); Estonia, Latvia, Lithuania, Poland, Czech Republic, Hungary, Slovakia, Slovenia, Cyprus, Malta (accession: 2005); Bulgaria

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and Rumania (accession: 2007). The former European Coal and Steel Community, established in 1951 to last for 50 years, came to the end in 2002.

These ‘supranational’ Organizations (van Gend & Loos 1963) are competent to enter international agreements with third States and to adopt legislation binding on Member States, characteristics which differentiate the European Communities from the European Union. Irrespective of their autonomous character, the European Community and the European Union share the same bodies to a great extent (Treaty of Maastricht: arts. 3–5; Treaty of Rome I: art. 7). The European Union refers to the cooperation framework of the Member States and the institutional structures, thus encompassing the Community. Both pursue cooperation and policies common to the Member States according to the competences and powers conferred by the Member States. The European Community pursues policies particularly in the economic area (the ‘first pillar’ of the European Union), while the European Union develops policies on external affairs (the ‘second pillar’) and internal matters (‘third pillar’). This chapter uses both terms, preferring European Community to address legal technicalities and European Union to refer to the more comprehensive political entity.

Human and ecosystem health and development depend on the quantity and quality of water. Unfortunately, since the Industrial Revolution, European waters have become increasingly polluted. Most European rivers were treated as a convenient way of transporting waste, thus affecting ecosystems along thousands of kilometres of waterways, harming human health, and polluting coastal and marine waters (European Environment Agency 2005). Europeans have consistently expressed deep concerns about their waters; it is their single most lasting environmental concern (Special Eurobarometer 2004; Water Framework Directive 2000: preamble). Even when, in 2008, climate change was prioritized over water (European Commission 2008), it is still to water, to a significant degree, that they are pointing to, water policies being particularly crucial to climate change adaptation (Canelas de Castro 2007). Member States of the European Union have not, over the years, managed fully to meet the challenges created by this state of affairs. On the contrary, surface waters and ground waters have generally evidenced a poor status. A recent survey of water quality found that around 60% of the European water bodies fail to meet even minimal quality criteria and 20% of surface waters are seriously polluted, with 87% of groundwater equally badly polluted (European Environment Agency 2003; Eutrophication Steering Group 2004). Moreover, 60% of European water services overexploit aquifers and 50% of the wetlands are at risk due to excessive exploitation of ground waters.

Against this background of common concern, formal environmental protection policy was ‘constitutionalized’ for the first time by the Single European Act (1986). Community water policy entered a new stage with the adoption in 2000 of the Water Framework Directive and subsequently the establishment of the Common Implementation Strategy. These momentous changes amount to a true paradigm-shift whereby the newer Community water policy becomes functionally oriented towards sustainable development and meeting the expectations of European citizens.