

Does the European Union need a ‘Drought Directive’? A legal perspective

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Does the European Union need a ‘Drought Directive’? A legal perspective

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Summary. With global warming progressing, droughts are anticipated to increase in frequency in the European Union. However, under the current EU legal framework, they remain on the margin of water management policies. To adapt to changing natural conditions, the Member States should take a more proactive approach to drought mitigation. The policy options on how to accelerate such a transition encompass the continuation of reliance on soft-law guidances, the amendment of the Water Framework Directive or the adoption of a ‘European Drought Directive’ – a new, up-to-date, all-encompassing legal instrument. This paper analyses those policy options from a legal perspective. It also exposes problems and benefits they can bring if and when pursued. As the Water Framework Directive remains ‘fit for purpose’, the priority shall be given to updating existing soft-law guidances and their translation into all official EU languages. However, there are strong arguments in favour of future legislative reform. This paper submits that a more proactive approach would conform more fully to EU primary law. Nevertheless, irrespective of the chosen policy option, coordination of drought mitigation and measures under existing EU water legislation at the river basin district level must be ensured.

Keywords: river basin district, proactive risk-management approach, Water Framework Directive, Floods Directive.

Ar Europos Sąjungai reikia Sausros direktyvos? Teisinė perspektyva

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Santrauka. Prognozuojama, kad dėl visuotinio atšilimo Europos Sąjungoje vis dažniau kils sausrų. Tačiau pagal dabartinę ES teisinę sistemą jos lieka vandens valdymo politikos paraštėse. Norėdamos prisitaikyti prie besikeičiančių gamtos sąlygų, valstybės narės turėtų imtis aktyvesnio požiūrio į sausrų mažinimą. Politinės galimybės paspartinti tokį perėjimą apima tolesnį rėmimąsi neprivalomomis teisinėmis gairėmis, Vandens pagrindų direktyvos pakeitimą arba Europos sausrų direktyvos – naujos, šiuolaikiškos ir visa apimančios teisinės priemonės – priėmimą. Šiame dokumente šios politikos

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galimybės analizuojamos iš teisinės perspektyvos. Jame taip pat atskleidžiamos problemos ir nauda, kurią jos gali atnešti, jei bus įgyvendintos. Kadangi Vandens pagrindų direktyva tebėra „tinkama naudoti“, pirmenybė teikiama galiojančių neprivalomųjų teisės aktų gairėms atnaujinti ir jų vertimui į visas oficialias ES kalbas. Vis dėlto yra svarių argumentų už būsimą teisės aktų reformą. Šiame dokumente teigiama, kad aktyvesnis požiūris labiau atitiktų ES pirminę teisę. Vis dėlto, neatsižvelgiant į pasirinktą politikos alternatyvą, reikia užtikrinti sausros padarinių švelninimo ir priemonių pagal galiojančius ES vandens teisės aktus koordinavimą upės baseino rajono lygmeniu.

Pagrindiniai žodžiai: upės baseino rajonas, aktyvus rizikos valdymo metodas, Vandens pagrindų direktyva, Potvynių direktyva.

Introduction

Drought is a common natural phenomenon of the European climate (European Environment Agency, 2017, p. 144). It can appear anywhere in Europe, in high and low rainfall areas, and in any season (European Commission, 2023). Between 2003 and 2020, nine large-scale drought events affected different parts of Europe (Blauhut *et al.*, 2022, p. 2202). 2022 also brought a record-breaking drought, one more in a series of extreme climate events that are becoming the new normal.

Drought duration and severity are expected to intensify due to climate change as the European continent warms faster than other parts of the world (European Environment Agency, 2017, p. 144; European Parliament, 2022, para C). Therefore, the European Commission (2021, p. 3) announced that in the long term, almost all river basins may be exposed to droughts. As a result, organisational and technical solutions would be required. This paper analyses ideas on how the legal system of the European Union could stimulate more proactive drought management.

The current EU legal framework, revisited in Chapter 1 of this paper, consists of the Water Framework Directive¹. That legal act is accompanied by soft law guidance². However, this paper submits that with growing challenges, drought mitigation will require a transition from crisis management towards a more proactive approach. Policy opinions nevertheless vary on whether such a paradigm shift is to be accompanied by changes in the current EU legal framework and, if any, whether potential amendments should take the shape of a new and separate ‘European Drought Directive’. Chapter 2 of the paper summarises those proposals. It is argued that those different proposals, although discussed in scholarship, have not been analysed from a legal perspective. This paper fills that gap. Chapter 3 argues that the current EU legal framework dealing with drought has lost its fit for purpose. Under current global warming models, legislative changes become inevitable and indispensable. However, such initiatives need to comply with the fundamental EU law principles. Therefore, that part analyses which policy options would best comply with the principles of proportionality and subsidiarity. It turns out that both the amended Water Framework Directive and the ‘European Drought Directive’ could be envisaged to introduce changes stimulating a more proactive approach to drought mitigation. Ultimately, the coordination of water and drought policies within the river basin districts has to be ensured in any proposed legislative form.

¹ 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, *OJ L327*, 22.12.2000, p. 1.

² European Commission, 2009, Guidance Document No. 24 River Basin Management in a Changing Climate; European Commission, 2007, Technical Report – 2008 – 023 on Drought Management Plan Report.

1. Drought mitigation in the current EU legal framework

Across the EU, the Water Framework Directive provides a legal framework to reduce drought impacts (European Environmental Agency, 2021, p. 9). However, 'drought' appears only three times in the Directive's text. The laconic nature of the drought regulation was a conscious choice of the European Commission, as is apparent from an Explanatory Memorandum to the Proposal for what later became the Water Framework Directive. That document reveals that the Commission only considered alleviating the impact of floods and droughts as the fourth (and last) objective of a sustainable water policy. At the same time, that institution saw less of a role for the (then) European Communities in achieving the fourth objective due to the principle of subsidiarity. According to the Commission (1997, p. 5), 'the prevention and alleviation of floods and droughts depend extensively on regional and local physical planning and action in which the various specific conditions play a major role'. Therefore, the Member States are exclusively responsible for addressing drought (Kampragou, 2011, p. 817).

The intertwinement between drought mitigation and water management becomes apparent in Article 1 (e). According to that provision, one of the purposes of the Water Framework Directive is to establish a 'framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which contributes to mitigating the effects of floods and droughts'. The other two provisions even further bind drought with water-related administrative arrangements but in a less obvious way. In the Water Framework Directive, drought is perceived as any other occurrence negatively affecting water quality. Addressing that issue remains the responsibility of the same competent authorities (European Commission, 2007). As the main unit for management, the Water Framework Directive designates a river basin district (Article 2(15)). Thus, when developed, drought mitigation measures and programs may be included in or supplement the compulsory river basin management plans (Article 4(1), Article 11, Article 13(4)–(5); Commission of the European Communities, 2007, p. 8). They may be necessary to avoid a breach of the requirements of the Water Framework Directive during a prolonged drought in drought-prone areas (Article 4(6)(a–e)). Additionally, Part B (ix) of Annex VI to the Water Framework Directive permits the Member States to adopt supplementary measures referring to demand management, inter alia, promotion of adapted agricultural production such as low water-requiring crops in areas affected by drought.

Although the term 'drought' does not appear in any other provision of the Water Framework Directive, Kampragou et al. (2011, p. 818, Table 1) perceive those other provisions nevertheless as potentially enabling proactive drought planning and management. Article 5 concerns the characterisation of bodies of water as allowing for assessment of their vulnerability to drought. In addition, Article 8 on monitoring of water bodies status permits for 'incorporation of drought indicators, drought triggers and monitoring methods'. Article 9 could be used to enable evaluation of the costs, benefits and trade-offs of addressing drought. Lastly, Article 14 on public information and consultation facilitates the inclusion of stakeholders' participation in drought mitigation planning, including even water use rights and priorities allocation in case of scarcity. However, the extent to which these opportunities have been used has not been subject to more elaborate scientific research.

In addition to the provisions of the Water Framework Directive, attempts to standardise a governance approach towards drought have been made using soft law. To meet implementation challenges, the European Commission, Member States and Norway agreed on a Common Implementation Strategy (CIS). Following that, a series of guidance documents and technical reports were drafted. (European Commission, 2023a; Common Implementation Strategy for the Water Framework Directive, 2001, p. 1). Among them, two concern drought management issues: Guidance Document No. 24 River Basin

Management in a Changing Climate (European Commission, 2009, pp. 93–101) and Technical Report – 2008 – 023 on Drought Management Plan Report (European Commission, 2007). Both documents intend to provide general guidance to river basin managers, encouraging them to voluntarily adopt Drought Management Plans or, at least, to incorporate climate change issues into the next river basin management cycle. However, the research of Urquijo et al., 2016 and Blauhut et al. (2022) proved limited success of such a strategy.

2. Reforming drought mitigation: towards a proactive risk-management approach

In the opinion of many scholars and policy-makers, meeting the minimum requirements of the Water Framework Directive no longer suffices. To effectively address drought, they postulate a transition towards a ‘proactive drought risk management’ or, shortly, a ‘proactive approach’. Such a ‘risk-management approach’ requires long-term drought preparedness and risk reduction. It aims at enhancing society’s resilience to drought. For that purpose, strategic (or protection/preparedness), management (mitigation), and recovery measures shall be applied respectively before, during and after a drought event (Kampragou et al., 2011, p. 816, 821; Urquijo et al., 2016, pp. 246–247, 250, 256; UNDRR, 2019, pp. 171, 197). In their attempt to define a new ‘risk-based management approach’ to drought, Urquijo et al. (2016, p. 252) recalled several key elements and indicators: use of ‘monitoring systems for early warning, existence of vulnerability assessment, elaboration of DMPs [Drought Management Plans], use of detailed definitions of drought’ and presence of a ‘wide array of measures covering all aspects and phases of drought’. However, scholars and policy-makers dispute how to encourage a transition towards such an approach. In particular, on how to achieve the preparation of further drought management plans and drought definitions. In particular, on how to achieve the preparation of further drought management (Subsection 2.1.) plans and drought definitions (Subsection 2.2.).

2.1. Fragmentary development of drought management plans

The former element – drought management strategy and planning – constitutes a ‘key element to mitigate drought impact’ under the proactive risk management approach (Kampragou *et al.*, 2011, p. 816; Blauhut *et al.*, 2022, p. 2202). Its added value results from the predetermination of actions to be taken at each stage of drought occurrence. Such preparedness helps to avoid improvisation during emergencies (Urquijo *et al.*, 2016, p. 259). As mentioned in Chapter 1, the Water Framework Directive allows for a wide range of flexibility to mitigate drought. The decision to elaborate drought management plans or programmes and their exact scope were left to the discretion of the Member States (Kampragou *et al.*, 2011, p. 817). Relevant documents may be included in river basin management plans as ‘basic’ measures or constitute separate ‘supplementary programmes of measures’ or supplementary ‘programmes and management plans’ (Article 4 (1), Article 11, Article 13 (4)–(5)). Currently, approaches to drought mitigation reflect the heterogeneity of the continent’s hydro-climatic conditions and governance backgrounds (Blauhut *et al.*, 2022, pp. 2209–2210). During the second reporting cycle (2015–2021), only in eight Member States river basin management plans were accompanied by drought management plans (European Environmental Agency, 2021, p. 29; European Commission, 2019, p. 15).

At the same time, the absence of drought management plans does not constitute an infringement of the Water Framework Directive. Their lack, however, undermines the transition towards a proactive approach to drought mitigation. Therefore, opinions diverged on whether there is a need

to upgrade the legislative framework. As a result, three policy options emerged. One among them envisages a voluntary preparation of further drought management plans integrated with their river basin management plans. The reluctance to legislative change stems from the positive evaluation of the Water Framework Directive as still providing a flexible and 'suitable framework for acting on policy options to reverse water scarcity and drought, despite slow implementation (European Environmental Agency, 2021, pp. 9–10; European Commission, 2019, p. 115–124). As a stimulus soft power and soft law shall serve: promotional activities and update of the Guidance Document No. 24 (European Commission, 2021, p. 17; Common Implementation Strategy EU Water Law - Work Programme 2022–2024, 2021, pp. 2–3, 14; European Commission, 2012, p. 14). The second policy option envisages the creation of a 'European Drought Directive'. As proposed by Blauhut et al. (2022, pp. 2202–2203, 2209, 2213–2214), the EU could consider constructing a new legal act mirroring the Floods Directive³. Under that option, a 'European Drought Directive' could replicate Article 7 of the Directive 2007/60/EC. As the latter introduced an obligation to establish flood risk management plans coordinated at the level of river basin districts, so could the former address the unsatisfactory implementation of drought risk management plans.

Finally, the third policy option, in essence, replicates the second one but with two differences. On the one hand, an obligation to elaborate drought management plans could join the amended Water Framework Directive. Therefore, there would be no need to create a new legal act. On the other hand, Kampragou (Kampragou *et al.*, 2011, p. 819, Table 2) only identified voluntary, instead of obligatory, preparation of drought management plans as a gap in the Water Framework Directive. These authors neither explicitly express willingness to change the current legal framework nor propose other policy options. However, addressing that gap would be possible only through an amendment to the Water Framework Directive. Therefore, a potential need to reform that legal act can be assumed.

2.2. Lack of legally binding drought definitions at the EU level

The relevance of drought definitions for the risk-based approach stems from their role as a trigger to drought response. According to Urquijo (Urquijo *et al.*, 2016, p. 261), a clear, official drought definition permits an accurate evaluation of drought risk level and thus the timely (de)activation of suitable countermeasures. However, the silence of the Water Framework Directive on how to interpret 'drought' and 'prolonged drought' worked as designed by the EU legislator. While certain competent authorities of the river basin districts created operational drought definitions or adopted national ones to local conditions, 60% of surveyed water professionals declared a lack of or unawareness of operational drought definitions in their public organisations (Blauhut *et al.*, 2022, p. 2207). In such circumstances, scholars and policy-makers developed various ideas to stimulate a more common use of drought definitions. Nevertheless, there is no consensus on their appropriate form. The divergencies can be sorted into two groups. The first concerns the governance level at which drought definitions shall become operational. Here, the opinions vary on whether drought shall be defined at the EU level (Blauhut *et al.*, 2022, p. 2213; Kampragou *et al.*, 2011, p. 819, Table 2) or maybe at the river basin district level (Urquijo *et al.*, 2016, pp. 253, 260). The second set of suggestions focuses on the formulation of the drought definition. While some authors opt for a delimitation of drought as a phenomenon that is fundamentally different from all others, particularly from water scarcity (Urquijo *et al.*, 2016, pp. 253, 260; Commission of the European Communities, 2007, p. 2), others prefer elaborating detailed definitions for

³ Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on assessment and management of flood risks, *OJ L288*, 06.11.2007, p. 27.

each type of drought, including prolonged drought or drought spells (Kampragou *et al.*, 2011, p. 819, Table 2; Blauhut *et al.*, 2022, p. 2213).

Despite these divergencies, however, the abovementioned ideas are complementary to a certain degree. A broader drought definition established in a directive could be adapted to the local conditions of a river basin district with the help of soft law (Blauhut *et al.*, 2022, p. 2213). Nevertheless, the argument raised by Urquijo *et al.*, (2016, pp. 261–262) highlights the risks of over-generalization resulting from differentiated perceptions. According to their research, stakeholders in drier regions perceive water scarcity and drought as synonyms, while in humid ones, drought equals an ‘unusual phenomenon’ with ‘abnormally high temperatures’. Therefore, policy options that emerge from presented ideas presuppose a co-existence of soft law and the Water Framework Directive or, eventually, the ‘European Drought Directive’. Ultimately, a ‘Drought Directive’ can also be adopted in parallel with introducing the water scarcity definition into the Water Framework Directive.

3. ‘European Drought Directive’: one more ‘daughter’ under the ‘umbrella’?

So far, this paper revisited existing debates on elaborating further drought risk management plans and definitions. To the extent that a more proactive risk-management approach would be necessary, three policy options have materialised. For the near future, the evaluation of the Water Framework Directive in the 2019 Fitness Check as ‘fit for purpose’ (Jensen and Román, 2023, p. 47; European Commission, 2019, p. 115–118), probably halted any reform vision of the legally binding drought management framework. It shall be noted that such a decision was made despite the numerous publications and policy papers drafted since 2007, revealing the shortcomings of the current regulations (e.g. Commission of the European Communities, 2007, p. 8; European Commission, 2012, p. 14; European Commission, 2021, p. 17). Even with a fuller implementation of the Water Framework Directive, the topic of a potential legislative reform may become as recurrent as drought events (Subsection 3.1.). Therefore, it seems useful or even necessary for the European Commission to revise its current policy due to accelerating climate change. To that extent, Subsection 3.2. examines the compatibility of a directive obliging the Member States to elaborate drought management plans and definitions with the EU primary law. Somewhat remarkably, our analysis suggests that full respect for EU Treaties requires already more elaborated drought management approaches to be set up. At the same time, however, EU primary law does not give preference to any revisionist policy options. Against that background, Subsection 3.3. confronts the reform ideas of the ‘European Drought Directive’ and the amendment of the Water Framework Directive with the experiences with the Floods Directive. It follows from that analysis that any further drought regulation format has its strong and weak points.

3.1. Soft law: not so low?

Among the presented policy options, the currently preferred one preserves drought-related provisions within the Water Framework Directive. With the responsibility to address drought left to the discretion of the Member States, the EU can stimulate the transition towards the risk-based management approach with soft power, soft law and inter-institutional developments only. Over the years, that policy option led to the piecemeal development of drought management plans and definitions. At the same time, another relevant element of the risk-based management approach is already in place. Without amending EU secondary law, the European Commission successfully established the European Drought Observatory, an EU-wide early warning monitoring system (EDO – European Drought Observatory, 2023; European Commission, 2021, p. 2; European Commission, 2012, p. 14).

In addition, Members of the European Parliament also share the belief in the ability of soft law to accompany drought management measures. In 2022, they adopted a resolution urging the European Commission to organise with the Member States a 'European water conference in order to rapidly develop guidelines on the management of transnational shared river basins, especially in the event of multi-annual droughts (European Parliament, 2022, para 47). Moreover, it could be submitted that soft law has not yet fully exhausted its potential. Documents like Guidance Document No. 24 and Technical Report – 2008 – 023 are available exclusively in English (European Commission, 2007; 2009). Their translation into the remaining 23 official languages of the EU could stimulate the elaboration of further drought management plans and definitions without changing the current legal setting.

Soft law and soft power have proven their potential to prompt progress towards risk-based management over two decades since the Water Framework Directive entered into force. At the same time, they remain insufficient to empower a complete paradigm shift. Kampragou *et al.*, (2011, p. 815, 817) argue that such a proactive approach requires consolidating policies and actions at different governance levels, from communities via river basin districts to the EU level. Every year, that claim becomes more acute. With progressing climate change, droughts may occur over a significant part of the EU without respecting national borders (Blauhut *et al.*, 2022, p. 2213). Against that background, the exclusive reliance on soft law may prove insufficient to trigger a timely paradigm shift.

3.2. EU primary law: the gatekeeper

Under the current EU legal framework, EU Member States remain solely responsible for addressing drought (Kampragou, 2011, p. 817). However, 'responsibility' should not be equated with 'competence'. In light of the principle of conferral, the EU can act within the limits of the competencies conferred upon it by the EU Member States in the Treaties to attain objectives set out therein (Article 1, Article 5(2) sentence 1 TEU)⁴. The environment belongs to principal areas in which competencies are shared between the EU and its Member States (Article 4 (2)(e) of TFEU)⁵. Therefore, Title XX 'Environment' of TFEU lists numerous objectives of the EU's environmental policy (Article 191(1)). They are followed by guiding principles underpinning such an EU's mandate (Article 191(2)) and relevant criteria the EU shall take into account when taking action based on Article 192 and Article 193 TFEU (Klamert, 2019, paras 4–22; Garben, 2019; Garben 2019a).

Instead of the limits set by the principle of conferral, vague provisions of Articles 191–192 TFEU highlight the limitations of the current EU environmental policy on drought. When juxtaposed with 'available scientific and technical data' on climate change, legislative reform seems indispensable to meet the objectives. According to forecasts, droughts will continue increasing in frequency, magnitude and impact. In particular, they will affect Southern and Central Europe and the Mediterranean region. Moreover, droughts already pose a risk to human health and ecosystems. Their appearance also impacts various sectors of the EU's economy (UNDRR, 2019, pp. 171, 174; Blauhut *et al.*, 2022, p. 2211). For the EU, their yearly estimated cost amounts to €9 billion. However, the damage to ecosystems and their services is unquantifiable (European Environment Agency, 2021, p. 9). These values are expected to even increase in the future, depending on the speed of global warming (European Commission, 2023; 2021, p. 2).

⁴ Consolidated version of the Treaty on European Union, *OJ* C326, 26.10.2012, p. 13.

⁵ Consolidated version of the Treaty on the Functioning of the European Union, *OJ* C326, 26.10.2012, p. 13; It means that both the EU and the Member States may legislate and adopt legally binding acts, but the latter shall exercise their competence to the extent that the Union has not exercised its competence. (Article 2 (2) sentence 1, 2 TFEU).

As in the case of the principle of conferral, an evaluation against the principles of subsidiarity (Article 5(3) TEU; Klamert, 2019, paras 23–33) and proportionality (Article 5(4) TEU; Klamert, 2019, paras 34–49) also encourages the adoption or amendment of a directive dealing with drought. Overall, the action of the EU on the environment complies with the principle of subsidiarity due to its interconnected nature (Garben, 2019, para 5). Drought impact and response may concern various scales and governance levels (Urquijo *et al.*, 2016, pp. 250–251). Even by existing national measures, river basin districts require considering local specific conditions (European Commission, 2021, p. 2). However, in the EU, 60% of river basins are in transnational regions (European Parliament, 2022, para O). Therefore, a common strategy at the EU level could delegate specific actions to the EU Member States and better stimulate transboundary management during drought (Blauhut *et al.*, 2022, p. 2213). It shall be admitted that amendment or adoption of a new directive could satisfy the principle of proportionality. That type of EU secondary legal act allows compulsory coordination of national approaches while leaving room for local variations (Garben, 2019, para 17–18). Nevertheless, the EU primary law does not give preferences for any among revisionist policy options.

3.3. Water Framework Directive versus ‘European Drought Directive’: a panacea or a placebo?

In the vision of Blauhut (Blauhut *et al.*, 2022), a ‘European Drought Directive’ shall mirror the Floods Directive. On the one hand, drafting such a new, all-encompassing legal act seems revolutionary, as even the United States of America does not have a comprehensive and coherent drought policy on a federal level (Stakhiv, 2016, p. 124). Moreover, a terminological separation of drought and water scarcity may be cumbersome, if possible at all. On the other hand, the Water Framework Directive constitutes a ‘legal umbrella’ for water management in the EU (Urquijo *et al.*, 2016, p. 246), complemented by several ‘daughter directives’ (European Commission, 2023a). Naturally, the Floods Directive belongs to such a legal ‘family’ (Priest *et al.*, 2016; Kellens *et al.*, 2013, p. 17; European Commission, 2009, p. 2). In addition, the current threat of drought described above resembles the explanation given for passing the Floods Directive (Commission of the European Communities, 2006, p. 2).

In light of the 2019 Fitness Check (European Commission, 2019, pp. 2, 42, 57, 115, 123, 136), the Floods Directive proved a positive cost/benefit ratio of flood protection. According to the European Commission, that legal act introduced a flexible and integrated approach to flood management in the EU without an excessive administrative burden. Although the Floods Directive requires Member States to prepare flood risk management plans (Article 7 of the Floods Directive) concentrated on prevention, protection and preparedness, such plans shall be coordinated with the river basin management plans within the same 6-year-long policy cycle. It is also possible to prepare one management plan for both the Water Framework and Floods Directives (Article 14; Kampragou *et al.*, 2011, p. 818; Kellens *et al.*, 2013, p. 17–18). Ultimately, the Floods Directive encompassed only one general legal definition of the flood (Article 2 (1)).

Despite the improvements it developed, however, the Floods Directive has some shortcomings. To implement that EU secondary legal act, additional flood definitions at a local level may still be indispensable (Kellens *et al.*, 2013, p. 17). In addition, the lack of consensus over such definitions may hamper successful cross-border flood management (Priest *et al.*, 2016). Furthermore, improvements require coordination between competent flood authorities at different governance levels and over national boundaries (Mikša *et al.*, 2021, pp. 1–2; European Commission, 2019, p. 80). Discrepancies appear equally in administrative settings. Under the Water Framework Directive, the river basin district

was chosen as a main unit for water management (Article 2 (15)). The relevance of that choice stems from a paradigm of Integrated Water Resources Management underlying that legal act (Kampragou *et al.*, 2011, p. 817). In light of that paradigm, ecosystems shall be protected and restored within their natural boundaries (European Commission, 2019, p. 37). As a rule, a river basin district shall remain the basic administrative unit for the Water Framework Directive and Floods Directive (Article 2). However, the latter act allows for the appointment of other competent authorities and the assignment of individual river basins to different units of management than those under the Water Framework Directive (Article 3(2) (a–b); Article 8). Such a policy undermines the coherence of both legal acts, especially the coordination of flood risk management plans and river basin district plans, as former measures are often adopted on national levels only (Mikša *et al.*, 2021, pp. 2, 6; Priest *et al.*, 2016). Therefore, this example shows that an obligation to prepare drought management plans under a new directive does not guarantee better coordination with existing water-related legislation, especially the Water Framework Directive.

Conclusions

1. This article analysed ideas for enhancing drought management in the EU from a legal perspective. With climate change progressing, increasing drought impacts challenge the current framework of the Water Framework Directive. Scholars and policy-makers opt for the transition towards a proactive risk-management approach. As an ad-hoc solution, updated and new soft-law guidances on drought mitigation could be translated into all official EU languages. However, accelerated global warming may hasten the revision of current policies. To that end, some authors propose to go beyond soft-law guidances. As drought events are often transboundary phenomena, efficient drought mitigation justifies further legislative action at the EU level. Options in that context vary on whether the Water Framework Directive shall be amended or a new, tailor-made separate 'European Drought Directive' adopted.
2. This article submitted that the EU needs a directive better dealing with drought, but not necessarily a separate 'European Drought Directive'. Three different policy options could be envisaged in that context. These scenarios include: 1) leaving drought mitigation exclusively within the framework of the Water Framework Directive and integration of drought definitions and drought management plans into river basin management plans; 2) adoption of a 'European Drought Directive', as suggested by Blauhut; 3) adoption of 'European Drought Directive' while amending Water Framework Directive with provisions on water scarcity. It also reveals that the coherence of water, floods and drought policies would be necessary under all three policy options. As a result, the river basin districts would have to remain central administrative units, while drought policies are to be coordinated with river basin management plans and flood risk management plans.

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