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Rozsah a limity článku 9 rámcovej smernice o vode: návratnosť nákladov, dostupnosť a správa vodného hospodárstva

The Scope and Limits of Article 9 of the Water Framework Directive: Cost Recovery, Affordability and Water Governance

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Anotácia

Článok 9 rámcovej smernice o vode zavádza návratnosť nákladov ako základný princíp správy vodného hospodárstva v EÚ, pričom prepája cenové politiky s environmentálnymi cieľmi a princípom „*znečisťovateľ platí*“. Zároveň smernica uznáva, že voda nie je bežným komerčným produktom, ale spoločným dedičstvom. Medzi týmito dvoma východiskami sa tak objavuje napätie medzi ekonomickou racionalitou a sociálnou ochranou.

Tento článok skúma rozsah a limity článku 9 prostredníctvom analýzy jeho právneho návrhu, výziev pri jeho implementácii a jeho vzťahu k dostupnosti. Argumentuje, že návratnosť nákladov, hoci je nevyhnutná, nemôže fungovať ako samostatný princíp. V praxi tarify len zriedka odrážajú úplné finančné, environmentálne a zdrojové náklady a sú zároveň ovplyvnené politickými rozhodnutiami a sociálnymi hľadiskami. Výsledkom je fragmentovaná aplikácia medzi členskými štátmi, kde sú otázky dostupnosti riešené nejednotne a často zostávajú mimo právneho rámca smernice.

Článok ďalej rozvíja koncept udržateľnej návratnosti nákladov, založený na kombinácii taríf, daní a transferov, ako realistickejší prístup k financovaniu služieb vodného hospodárstva. Záverom poukazuje na to, že limity článku 9 nie sú len technické, ale aj štrukturálne. Bez riadiaceho rámca, ktorý integruje dostupnosť, transparentnosť a zodpovednosť, zostáva návratnosť nákladov neúplným nástrojom, schopným usmerňovať politiku, no nedostatočným na zabezpečenie spravodlivých a odolných služieb vodného hospodárstva v Európskej únii.

Annotation

Article 9 of the Water Framework Directive introduced cost recovery as a central principle of EU water governance, linking pricing policies to environmental objectives and the polluter pays principle. At the same time, the Directive recognises that water is not a commercial product like any other, but a shared heritage. A tension between economic rationality and social protection is visible between the two.

This article examines the scope and limits of Article 9 by analysing its legal design, its implementation challenges, and its interaction with affordability. It argues that cost recovery, while necessary, cannot function as a standalone principle. In practice, tariffs rarely reflect full financial, environmental and resource costs, and are constrained by political choices and social considerations. The result is a fragmented application across Member States, where affordability concerns are addressed inconsistently and often remain external to the legal structure of the Directive.

The article further develops the concept of sustainable cost recovery, based on the combination of tariffs, taxes and transfers, as a more realistic approach to financing water services. It concludes that the limits of Article 9 are not only technical, but structural. Without a governance framework that integrates affordability, transparency and accountability, cost recovery remains an incomplete tool, capable of guiding policy but insufficient to ensure equitable and resilient water services in the European Union.

Kľúčové slová

rámcová smernica o vode; článok 9; návratnosť nákladov; dostupnosť; správa vodného hospodárstva; udržateľná návratnosť nákladov; 3T; environmentálne právo EÚ

Key words

Water Framework Directive; Article 9; cost recovery; affordability; water governance; sustainable cost recovery; 3Ts; EU environmental law

I. Introduction

Water law in the European Union begins with a statement that seems simple, but carries significant weight: water is not a commercial product like any other.[1] This idea, expressed in the Water Framework Directive(Hereinafter WFD), sets the tone for a regulatory framework that treats water as a shared resource rather than a purely economic good. Yet, within the same legal instrument, the Union introduces a principle that appears to pull in a different direction. Article 9 requires Member States to take account of the recovery of the costs of water services[2], including environmental and resource costs, and to use pricing as a tool to promote efficient water use.[3]

On the one hand, water is framed as a public good, closely linked to environmental protection and increasingly to social considerations. On the other hand, the Directive uses an economic logic that relies on pricing, incentives and cost allocation. Article 9 stands at the centre of this tension. It connects environmental objectives with economic instruments, but leaves significant room for interpretation in how this connection should be realised in practice, as more than two decades after the adoption of the Directive, the implementation of Article 9 remains uneven.[4]

The concept of cost recovery raises a fundamental question: what costs should be recovered, and by whom?[5] While the provision refers not only to financial costs, but also to environmental and resource costs, these elements are rarely fully reflected in pricing systems. At the same time, tariffs are influenced by political choices and social considerations, especially when affordability is at stake.[6] In practice, Member States often rely on a combination of user charges, public funding and external support, not just on tariffs alone.

This shows the limits of treating cost recovery as a purely economic principle. As water services do not operate in isolation, they sit at the intersection of environmental sustainability, financial viability and social concerns. Affordability, in particular, sets a boundary that cost recovery cannot cross without affecting access to essential services. While Article 9 allows Member States to consider social and economic factors, it does not provide a clear framework for how these should be addressed.

This article argues that the limits of Article 9 are not only a matter of implementation, but are built into its design. Cost recovery operates in practice more as a guiding principle than as a strict legal obligation, as its effectiveness depends on the governance structures within which it is applied. Moving beyond the narrow focus on tariffs, the article proposes a shift towards sustainable cost recovery, based on a combination of tariffs, taxes and transfers, and supported by transparent and accountable regulatory frameworks.[7]

By examining the legal design of Article 9, its practical application, and its interaction with affordability, this article argues that the key challenge in EU water governance is not whether costs should be recovered, but how this recovery is organised, distributed and justified.

II. The Emergence of Affordability in Water Governance

[1] Directive 2000/60/EC of the European Parliament and of the Council, OJ L 327, 22 December 2000, recital 1.
[2] *Ibid.*, Article 9.
[3] Article 191(2) Treaty on the Functioning of the European Union (TFEU).
[4] OECD. 2021. *Financing Water Supply, Sanitation and Flood Protection: Challenges in EU Member States*. Paris : OECD, 2021.
[5] European Commission. 2012. *A Blueprint to Safeguard Europe's Water Resources*. COM(2012) 673.
[6] UN Committee On Economic, Social And Cultural Rights. 2002. *General Comment No. 15: The Right to Water*. E/C.12/2002/11. 2002.
[7] OECD. 2009. *Managing Water for All: An OECD Perspective on Pricing and Financing*. Paris : OECD, 2009.

The tension between cost recovery and affordability inevitably brings up the question of the right to water, access to water.[8] This is not a concept that appeared overnight or in a clear legal form. It developed gradually, shaped by international discussions, civil society pressure, and growing concern over privatization and unequal access.[9]

At the same time, water governance has never been simple, given its polycentric nature.[10] It sits at the intersection of environmental, social and economic priorities, and these do not always align. As market-based approaches became more common, concerns also grew about their impact on access to water, while resistance to treating water as a commodity widened the debate.

Over time, water gained a more central place in global policy. From the 1977 Mar del Plata Conference[11] to the Millennium Development Goals[12] and later the Sustainable Development Goals, the focus on access and sustainability became stronger.[13] The real shift, however, came with General Comment No. 15 and the 2010 UN General Assembly Resolution, which framed the right to water around availability, quality and affordability.[14] In our argument, the relationship between affordability and cost recovery will be the grounding force.

However, the right to water's implementation remains uneven, especially when it comes to affordability. While it is often suggested that water costs should stay within 3–5%[15] of household income, this is not always respected, and in some cases not even properly measured. At the same time, the use of market-based models keeps adding to the tension between cost recovery and social protection.[16]

In this context, the importance of the right to water is not whether it is formally recognised in EU law. Its real role is more practical, as it sets a limit. Affordability marks a boundary that cost recovery cannot cross without putting access to essential services at risk.

Affordability in the Context of Environmental Law

Environmental law and the right to water are closely linked, as protecting water resources is essential for protecting the environment as a whole. What matters is not only how much water is available, but also its quality. Having large quantities of polluted water is no better than having clean water that is too scarce to meet basic needs.

The right places an obligation on states to ensure access to water that is both sufficient in quantity and safe in quality.[17] At the same time, it supports environmental protection by encouraging responsible

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[8] SZILÁGYI, J., E. 2015. A vízjogi szabályozási csomópontok továbbfejlesztésének lehetőségei. In: *Pro Futuro*. 2015, vol. 5, no. 2.
[9] HIRANO, M. Public participation in the global regulatory governance of water services. In: *Utilities Policy*, 2016, vol. 43, p. 22.
[10] PAHL-WOSTL, C., KNIEPER, C. 2023. Pathways towards improved water governance. In: *Environmental Science & Policy*, 2023, vol. 144, pp. 151–161.
[11] U United Nations. 1977. *Report of the United Nations Water Conference*. E/CONF.70/29. 1977.
[12] UN General Assembly. 2000. *United Nations Millennium Declaration*. A/RES/55/2, 2000.
[13] UN General Assembly. 2015. *Transforming Our World: the 2030 Agenda for Sustainable Development*. A/RES/70/1. 2015.
[14] UN Committee On Economic, Social And Cultural Rights. 2002. *General Comment No. 15: The Right to Water*. E/C.12/2002/11. 2002.
[15] WINKLER, I.T. 2012. *The Human Right to Water: Significance, Legal Status and Implications for Water Allocation*. Oxford : Hart Publishing, 2012.
[16] UNICEF/WHO. 2015. *Progress on Sanitation and Drinking Water: 2015 Update*. 2015.
[17] BLUEMEL, E.B. 2004. The implications of formulating a human right to water. In: *Ecology Law Quarterly*, 2004, vol. 31, p. 972.

management of water resources and by creating a framework for long-term sustainability and resilience.[18]

The right to water is usually understood through three elements: availability, quality and affordability.[19] The first two are directly linked to the condition of ecosystems, while affordability introduces a social and governance dimension. However, access to water cannot be understood as unlimited use. Environmental sustainability must remain part of how this right is interpreted.[20]

The right to water brings together basic human needs and environmental limits, and these do not always align easily, and it becomes even more complex when affordability is added to the mix. What is affordable for one group may not be for another, and general thresholds often miss these differences.

EU Law

EU law does not explicitly recognise a right to water as a human right.[21] Compared to international law, its approach is more indirect. Instead of a clear right, EU primary law focuses on the protection of water resources through environmental objectives.

Article 3 of the Treaty on European Union defines sustainable development and environmental protection as core objectives of the Union.[22] This is reinforced by Articles 11 and 191 of the Treaty on the Functioning of the European Union, which establish environmental protection as a cross-cutting principle and require the sustainable use of natural resources.[23] Article 192 provides the legal basis for EU action in this field.

The Charter of Fundamental Rights of the European Union also contributes to this framework. Article 37[24] emphasises environmental protection, while other provisions, such as Articles 1–3 on dignity and integrity, Article 21 on non-discrimination, and Article 36 on access to services of general economic interest, indirectly support access to essential services, including water.[25]

At the same time, water services can be treated as services of general economic interest. Under Article 14 TFEU, Member States are required to ensure access to such services, while Article 106 subjects providers to the rules of the Treaties, including competition law. This creates a legal framework where access, regulation and market principles need to be balanced.[26]

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[18] WINKLER, I.T. 2012. *The Human Right to Water: Significance, Legal Status and Implications for Water Allocation*. Oxford : Hart Publishing, 2012, p. 196.
[19] The other element is accessibility, that includes physical and economic access, non-discrimination, and access to information and participation, as defined in General Comment No. 15 (§10), building on General Comment No. 12. On this matter see: MONTALDO, R. 2022. Water protection law and the human right to water from the perspective of EU law. In: MILANOVIC, M., BEHRMAN, S. (eds.). 2022. *The Human Right to Water: Legal and Policy Dimensions*. Oxford : Oxford University Press, 2022, p. 2.
[20] GAWEL, E., BRETSCHNEIDER, W. 2016. *Content and Implementation of a Right to Water – An Institutional Economics Approach*. 2016, p. 13.
[21] MONTALDO, R. 2022. Water protection law and the human right to water from the perspective of EU law. In: MILANOVIC, M., BEHRMAN, S. (eds.). 2022. *The Human Right to Water: Legal and Policy Dimensions*. Oxford : Oxford University Press, 2022, p. 5.
[22] Treaty on European Union, 2007.
[23] Treaty on the Functioning of the European Union, 2007.
[24] Charter of Fundamental Rights of the European Union, 2000.
[25] MONTALDO, R. 2022. Water protection law and the human right to water from the perspective of EU law. In: MILANOVIC, M., BEHRMAN, S. (eds.). 2022. *The Human Right to Water: Legal and Policy Dimensions*. Oxford : Oxford University Press, 2022, p. 5.
[26] VAN DEN BERGE, J., BOELENS, R., VOS, J. 2020. How the European citizens' initiative changed EU discourse on water services. In: *Utrecht Law Review*. 2020, vol. 16, no. 2, pp. 48–59

Taken together, these provisions do not establish a standalone right to water. They do, however, define the legal space within which access to water must be organised, balancing environmental, economic and fundamental rights considerations.

Moreover, EU secondary legislation does not explicitly recognise a right to water, but it has played a central role in shaping water protection and access. Early initiatives, such as the 1973 Environmental Action Programme, placed water management at the core of environmental policy.[27] This was followed by sector-specific directives, including Directive 75/440/EEC[28] on surface water and Directive 98/83/EC[29] on drinking water quality, now updated by Directive (EU) 2020/2184.[30]

The most significant step came with the WFD, which established a comprehensive framework for water management.[31] While it does not create a right to water, Recital 1 frames water as a shared heritage rather than a commercial product.[32] This shows that the approach is becoming more protective and more integrated. The Directive is complemented by further measures, including legislation on groundwater protection and environmental quality standards.[33]

Directive 2014/23/EU on concession contracts excludes water services from its scope, recognising their particular importance.[34] Recital 40 refers to water as a public good of fundamental value, reinforcing its special status within EU law. Together, these elements do not create a clear right to water, but they shape the framework within which it must be protected and managed.

Affordability at the Centre

Affordability sits at the centre of water law, yet it remains one of its most difficult questions. It is inherently subjective.[35] What is affordable for one household may not be for another, which makes it hard to define and even harder to regulate.[36]

At the same time, affordability has a tension with cost recovery. From a purely economic perspective, this appears as a direct contradiction. However, this is not necessarily the case. International approaches increasingly see affordability not as an alternative to cost recovery, but as a limit to it. Pricing policies are expected to reflect costs, but not at the expense of excluding low-income households.

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[27] Commission of the European Communities. 1973. First Environmental Action Programme. In: *Bulletin of the European Communities*, 1973. Supplement 10/73.
[28] Council Directive 75/440/EEC, OJ L 194, pp. 26–31.
[29] Council Directive 98/83/EC, OJ L 330, pp. 32–54.
[30] Directive (EU) 2020/2184, OJ L 435, pp. 1–62.
[31] Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy, OJ L 327, pp. 1–73.
[32] "Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such."; Directive 2000/60/EC of the European Parliament and of the Council, OJ L 327, 22 December 2000, recital 1.
[33] Directive (EU) 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy. OJ L 327, 22 December 2000, pp. 27–34.
[34] Directive 2014/23/EU, OJ L 94, 2014.
[35] HIRANO, M. Public participation in the global regulatory governance of water services. In: *Utilities Policy*, 2016, vol. 43, p. 23.
[36] UN High Commissioner For Human Rights. 2007. *Report on the Scope and Content of Human Rights Obligations Related to Access to Water*. A/HRC/6/3, 2007.

This is particularly difficult to achieve in practice, because water services operate under economic, demographic and climate pressures, while also functioning as natural monopolies. In this context, it is national regulatory frameworks that balance financial sustainability and access.[37]

This highlights the importance of governance, as one key factor in the affordability question.[38] While ownership structures remain relevant, they do not determine how Article 9 is implemented in practice. The division between public and private ownership models does not really explain differences in affordability or cost recovery. Neither model, on its own, can ensure that pricing remains both economically sustainable and socially acceptable. What matters more is how cost recovery works in practice: how tariffs are set, how costs are shared, and whether there is effective oversight. Where this framework is weak or fragmented, affordability is more likely to suffer, regardless of ownership.

From the perspective of Article 9, the issue therefore can't be solved by choosing the right ownership model, but by governance. The Directive does not impose a single financing model, but it does require Member States to balance cost recovery with social, environmental and economic considerations. In practice, this balance depends on having a stable regulatory framework. It should ensure that pricing encourages efficient water use while maintaining access, protecting vulnerable users and supporting the long-term viability of the system.

Yet this governance dimension remains underdeveloped in both policy and academic debates. Discussions continue to focus on ownership, while Article 9 points in a different direction. The real challenge lies in building systems that can sustain both financial viability and social protection, and that cost recovery functions as a tool of governance rather than a purely economic requirement.

III. Water and Environmental Law Principles in the EU

Article 9 of the WFD does not operate in isolation, but reflects broader principles of EU environmental law. In particular, the polluter pays principle and the requirement of environmental integration shape how cost recovery should be understood.

EU environmental law is built on a set of core principles, primarily laid down in Articles 191–193 TFEU and reinforced by Article 11 TFEU and Article 37 of the Charter of Fundamental Rights of the European Union. Among these, the precautionary principle, the polluter pays principle, and the principle of environmental integration are particularly relevant in the context of water governance.

The precautionary principle[39] operates as a tool for managing risk under conditions of scientific uncertainty. It allows authorities to adopt preventive measures even where evidence is not yet conclusive, in order to avoid irreversible environmental harm.[40] In the context of water, this allows for early action and long-term protection, even where risks are not yet fully understood or detected.

The polluter pays principle[41] is more directly connected to Article 9 of the WFD. It requires that those responsible bear the costs of preventing and remedying environmental damage. In theory, this links cost recovery to environmental impact. In practice, however, it is not applied consistently. Identifying

[37] OECD. 2015. *The Governance of Water Regulators*. Paris : OECD.
[38] MURTHY, S.L. 2013. The human right(s) to water and sanitation. In: *Berkeley Journal of International Law*, 2013, vol. 31, no. 1, pp. 89–147.
[39] FREESTONE, D., HEY, E. 1996. *The Precautionary Principle and International Law*. 1996.
[40] ANASTASI, F. 2022. An outline on the right to water in the EU system. In: *European Studies – The Review of European Law, Economics and Politics*, 2022, vol. 9. DOI: 10.2478/eustu-2022-0061, pp. 363–389.
[41] SANDS, P., 2012. *Principles of International Environmental Law*; SCOTT, J. 2015. The geographical scope of the EU's climate responsibilities. In: *Cambridge Yearbook of European Legal Studies*. 2015, p. 92.

the polluter, assessing the damage and translating these costs into pricing all raise practical and legal difficulties. As a result, environmental and resource costs are often only partly reflected in tariffs.

The principle of environmental integration[42] further reinforces this framework by requiring that environmental protection is taken into account across all EU policies. This is particularly relevant for water services, where economic, social and environmental objectives meet. However, its broad and open wording raises questions about how strong it is in practice. In many cases, it functions more as a guiding principle than as a directly enforceable rule.[43]

The legal framework sets out ambitious environmental objectives, but their real impact depends on how they are put into practice. This is particularly clear in Article 9, where economic tools are meant to reflect environmental concerns, yet the link between the principle and its application often remains weak.

IV. The Water Framework Directive and the Full Cost Recovery Principle

The WFD was a response to a sector that was already changing, ridden with privatisation concerns[44], driven by increasing environmental concerns, but also by a broader shift in how public decisions were made. The move from "*government*" to "*governance*", combined with liberalisation and internationalisation, meant that more actors were involved, decision-making became more fragmented, and responsibilities were less clearly defined.[45]

The Directive aimed to create a common framework for water management across Member States, bringing together existing legislation under one system.[46] What made it different was not only what it protected, but how. Instead of isolated rules, it introduced an integrated approach, linking environmental objectives with planning, monitoring and management.[47]

Another important shift was the introduction of cost recovery as part of this framework. Water policy was no longer limited to environmental protection, but also addressed the question of financing. The Directive does not only ask how water should be protected, but also who pays for it, how costs are shared, and what role pricing should play.[48]

However, while linking pricing to environmental objectives appears logical in theory, in practice cost recovery is difficult to assess and apply, and where prices fail to reflect real costs or scarcity, the gap between environmental goals and what people can actually afford becomes more visible.[49]

Article 9 of the WFD

[42] Article 11 of the Treaty on the Functioning of the European Union.
[43] ANASTASI, F. 2022. An outline on the right to water in the EU system. In: *European Studies – The Review of European Law, Economics and Politics*, 2022, vol. 9. DOI: 10.2478/eustu-2022-0061, p. 368–370.
[44] BAKKER, K. 2010. *Privatizing Water: Governance Failure and the World's Urban Water Crisis*. Ithaca : Cornell University Press, 2010.
[45] KAIKA, M. 2003. The Water Framework Directive: A new directive for a changing European framework. In: *European Planning Studies*. 2003, vol. 11, no. 3, p. 300.
[46] *Ibid.*, p. 300.
[47] LEE, M. 2009. *EU Environmental Law: Challenges, Change and Decision-Making*. Oxford : Hart Publishing, 2009.
[48] KAIKA, M. 2003. The Water Framework Directive: A new directive for a changing European framework. In: *European Planning Studies*. 2003, vol. 11, no. 3, p. 300.
[49] SZABÓ, I. 2019. The European Governance of the Water Sector – Contentious Policy Agendas Triggering Transnational Reactions. *Conference publication*. European Research Council, 2019, p. 14.

The starting point for water pricing and financing in the European Union is a clear legal obligation: Article 9 of the WFD.

To understand its role in EU water governance, it is useful to look at the provision in full.

Article 9 of the WFD - Recovery of costs for water services "1. Member States shall take account of the principle of recovery of the costs of water services, including environmental and resource costs, having regard to the economic analysis conducted according to Annex III, and in accordance in particular with the polluter pays principle. Member States shall ensure by 2010: — that water-pricing policies provide adequate incentives for users to use water resources efficiently, and thereby contribute to the environmental objectives of this Directive, — an adequate contribution of the different water uses, disaggregated into at least industry, households and agriculture, to the recovery of the costs of water services, based on the economic analysis conducted according to Annex III and taking account of the polluter pays principle. Member States may in so doing have regard to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected. 2. Member States shall report in the river basin management plans on the planned steps towards implementing paragraph 1 which will contribute to achieving the environmental objectives of this Directive and on the contribution made by the various water uses to the recovery of the costs of water services. 3. Nothing in this Article shall prevent the funding of particular preventive or remedial measures in order to achieve the objectives of this Directive. 4. Member States shall not be in breach of this Directive if they decide in accordance with established practices not to apply the provisions of paragraph 1, second sentence, and for that purpose the relevant provisions of paragraph 2, for a given water-use activity, where this does not compromise the purposes and the achievement of the objectives of this Directive. Member States shall report the reasons for not fully applying paragraph 1, second sentence, in the river basin management plans."[50]

Year	**Milestone**	**Legal Reference**
2000	Directive enters into force	Art. 25
2003	Transposition into national law	Art. 23
2003	Identification of river basin districts and competent authorities	Art. 3
2004	Characterisation of river basins (pressures, impacts, economic analysis)	Art. 5
2006	Establishment of monitoring programmes	Art. 8
2006	Start of public consultation (at the latest)	Art. 14
2008	Publication of draft river basin management plans	Art. 13
2009	Adoption of river basin management plans and programmes of measures	Arts. 13 & 11
2010	Introduction of water pricing policies	Art. 9
2012	Programmes of measures become operational	Art. 11
2015	Achievement of environmental objectives (first cycle)	Art. 4
2015	End of first management cycle	—
2015	Adoption of second river basin management plans	Art. 13

[50] Directive 2000/60/EC.

Year	Milestone	Legal Reference
2021	End of second management cycle	Arts. 4 & 13
2027	End of third management cycle	Arts. 4 & 13
2033 (and every 6 years thereafter)	Review and update of river basin management plans	Arts. 4 & 13

WFD: Timetable for implementation[51]

The implementation of the WFD follows a structured timeline, in which Article 9 appears as part of a broader governance process rather than as a standalone rule. The sequencing is important. Cost recovery is introduced only after the establishment of river basin management, economic analysis, and monitoring systems. This means that pricing is not where the system begins, but a tool that depends on earlier institutional and analytical choices.

The Directive's Internal Tension

A closer look at the WFD reveals a clear internal tension. On the one hand, it opens with the statement that water is not a normal commodity. On the other hand, it brings in a logic we know from markets, based on price signals, cost recovery and incentives.[52]

This tension is not accidental, it is built into the Directive's structure. The WFD tries to balance water's role as a public good with its growing economic function.[53]

This is where water services become complex, both in law and in practice. Article 9 is meant to support environmental goals, but its effects are felt in everyday life. It affects what people pay for water, how affordable it is, and how costs are shared between different users.

At the same time, cost recovery is positioned as a central principle, while social concerns are left largely to Member States to address.[54] The Directive allows for flexibility, but this leads to different approaches in practice, and the balance between economic and social concerns is not resolved at the EU level.

From Full Cost Recovery to the 3Ts Approach

There is a growing sense that tariffs alone cannot finance water services in a way that is fair and stable. Services are expanding, infrastructure is ageing, and affordability is becoming harder to manage putting pressure on the system.[55] In sanitation in particular, financing debates often repeat the same patterns.

[51] Author's own compilation based on Directive 2000/60/EC (Water Framework Directive), OJ L 327, 22.12.2000, pp. 1–73, and its implementation timetable, in particular Arts. 3, 4, 5, 8, 9, 11, 13, 14, 23, 25.
[52] F FARNAULT, A., LEFLAIVE, X. 2024. Cost Recovery for Water Services under the Water Framework Directive. In: *OECD Environment Working Papers*, no. 240, 2024.
[53] KAIKA, M. 2003. The Water Framework Directive: A new directive for a changing European framework. In: *European Planning Studies*. 2003, vol. 11, no. 3.
[54] SZABÓ, I. 2019. The European Governance of the Water Sector – Contentious Policy Agendas Triggering Transnational Reactions. *Conference publication*. European Research Council, 2019, p. 9.
[55] STRONG, C., KUZMA, S., VIONNET, S., REIG, P. 2023. *Achieving Abundance: Understanding the Cost of a Sustainable Water Future*. Washington, DC : World Resources Institute. 2023.

One of these is "*gap talk*"[56], which focuses on the difference between investment needs and available funding.[57] Another is the search for a "*silver bullet*"[58], where attention shifts to new financing instruments, such as PPPs or blended finance, while the broader structure of the system is overlooked. At the same time, distributional questions are often left aside, even though costs are not shared equally and usually fall more heavily on vulnerable households.[59]

The real issue, however, is not only how much funding is needed, but who pays for it and whether that distribution is acceptable.[60]

This is where the idea of sustainable cost recovery becomes useful. It reflects a simple point, that tariffs alone are not enough. Even in well-developed systems, relying only on user charges can put too much pressure on households and does not fully reflect the public role of water services.

A more realistic approach is to combine different sources of funding. This is often described through the 3Ts: tariffs, taxes and transfers.[61] Tariffs support everyday operation and encourage careful use. Taxes and transfers help cover larger investments and support affordability where needed.

Moreover, seen in light of Article 9 of the WFD, cost recovery does not require that everything is paid through tariffs. The Directive gives Member States room to consider social and economic factors. In practice, this means that water services are financed through a mix of sources, not a single one.[62]

It moves away from the idea that users should bear all costs and towards a better reflection that water is a shared resource while still recognising the need to finance the system.

Intersection between Full Cost Recovery and Affordability

The idea of cost recovery has been debated from the beginning, particularly during the drafting of Article 9 of the WFD. One of the main issues lies in its wording.[63] While the provision requires Member States to take into account financial, environmental and resource costs, it does not define them in a clear or operational way.[64] Without a clear definition of costs, its application remains uneven.[65]

The Directive allows some flexibility to address social concerns, including the possibility to move away from full cost recovery where justified. But this also leads to different approaches across Member

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[56] FARNAULT, A., LEFLAIVE, X. 2024. Cost Recovery for Water Services under the Water Framework Directive. In: *OECD Environment Working Papers*, no. 240, 2024.
[57] CARRARD, N., WILLETTS, J., KOME, A., MUNANKAMI, R. 2024. Sustainable cost recovery principles can drive equitable funding. In: *npj Clean Water*. 2024. DOI: 10.1038/s41545-024-00399-2. p.1.
[58] OECD. 2022. *Financing a Water Secure Future*. Paris : OECD, 2022. DOI: 10.1787/a2ecb261-en.
[59] LEFLAIVE, X., HJORT, M. 2020. Addressing the Social Consequences of Tariffs for Water Supply and Sanitation. In: *OECD Environmental Working Papers*, 2020, no. 166.
[60] ALESSI, M., TREYER, S. 2013. Economic models and water pricing towards water efficiency. In: *Intereconomics*, 2013, vol. 48, no. 3, p. 153
[61] CARRARD, N., WILLETTS, J., KOME, A., MUNANKAMI, R. 2024. Sustainable cost recovery principles can drive equitable funding. In: *npj Clean Water*. 2024. DOI: 10.1038/s41545-024-00399-2.
[62] OECD. 2009. *Managing Water for All: An OECD Perspective on Pricing and Financing*. Paris : OECD, 2009; WINPENNY, J. 2003. *Financing Water for All: Report of the World Panel on Financing Water Infrastructure*. World Water Council. 2003.
[63] KAIKA, M. 2003. The Water Framework Directive: A new directive for a changing European framework. In: *European Planning Studies*. 2003, vol. 11, no. 3, pp. 314–327.
[64] UNNERSTALL, H. 2007. The principle of full cost recovery in the EU Water Framework Directive. In: *Journal of Environmental Law*, 2007, vol. 19, no. 1, p. 37
[65] Directive 2000/60/EC, Art. 9.

States. In some cases, tariffs are kept artificially low for political reasons, environmental costs are not fully reflected, and necessary investments are delayed because there is not enough funding.[66]

This gap between affordability and cost recovery cannot be understood without recognising that tariffs are shaped by political choices. Regulatory authorities are placed in a difficult position. They are expected to ensure affordability, while at the same time maintaining financial viability and resisting political and commercial pressures.[67] In this context, users are often treated as consumers rather than as rights-bearing citizens of the States, which can leave vulnerable groups less protected. This makes effective and independent regulation essential to ensure that tariffs are fair and transparent.[68]

Affordability, however, is not simply a matter of price. It acts as a limit that cost recovery should not cross. The focus is often on how much money is needed or on specific financing tools, while less attention is given to who actually pays, who takes the risks, and how responsibilities are shared. But financing mechanisms are not neutral, they affect who pays and under what conditions.

From a legal perspective, Article 9 does not require that water services are financed only through tariffs. A rigid reading of full cost recovery risks overlooking the public good character of water services and the flexibility built into the Directive. At the same time, keeping prices too low over time weakens long-term sustainability. This is why a mixed approach is needed.[69]

In this context, the combination of tariffs, taxes and transfers provides a more realistic framework.[70] Tariffs can support operation and encourage efficient use, while public funding can address investment needs and protect affordability. What matters is not the exact mix, but whether it keeps the system financially stable and fair for people over time.

Affordability also needs to be assessed carefully. Overall figures can suggest that cost recovery is manageable, while hiding the situation of vulnerable households. Even a small number of affected users matters in a sector linked to essential services. Targeted measures, such as social tariffs or income-based support, can help address this without affecting the stability of the system.[71]

Cost recovery should not be limited to financial accounting, but should, where possible, reflect environmental and resource costs in line with the objectives of the Directive.

This article does not reject cost recovery, but argues that it should not be treated in isolation. If Article 9 sees pricing as a tool of governance, then sustainable cost recovery is needed to prevent socially harmful outcomes.

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[66] MARQUES, R.C. 2010. *Regulation of Water and Wastewater Services: An International Comparison*. London : IWA Publishing, 2010.
[67] DE ALBUQUERQUE, C. 2014. *Realizing the Human Rights to Water and Sanitation: A Handbook*. 2014.
[68] *Ibid.*
[69] DE ALBUQUERQUE, C. 2014. *Report of the Special Rapporteur on the human right to safe drinking water and sanitation.* A/69/213, 2014.
[70] ALESSI, M., TREYER, S. 2013. Economic models and water pricing towards water efficiency. In: *Intereconomics*, 2013, vol. 48, no. 3, p. 153.
[71] *Ibid.*.

The sustainable cost recovery was introduced in the water sector debates in connection with the Camdessus Panel.[72] The sustainable cost recovery accepts the fact that tariffs are not sufficient to ensure financial viability for all services in all contexts.[73]

"*Even in the most developed countries, covering costs solely on the basis of tariffs may not take sufficient account of the burden this would place on the poorest consumers, or of the merit or public goods character of some WSS services, particularly sanitation*."[74]

Sustainable cost recovery is commonly expressed through the 3Ts:

- Tariffs (paid by users)
- Taxes (public budget funding)
- Transfers (external funds, including EU support or intergovernmental transfers)[75]

Framed with the Article 9, cost recovery can be treated as a principle that must be implemented through a financing mix, not through a single mechanism.[76] It disintegrates the illusion that users shoud pay for everything, and pushes to a shared burden. It also aligns with what the WFD itself permits, that Member States may consider social and economic effects and are not forced into one pricing model.

The WFD is one of the EU's most influential legal instruments shaping how water services are financed, and therefore how burdens are distributed between households, industries, farmers and the public budget.

This is also the point where the shift from *full* cost recovery to *sustainable* cost recovery becomes more than a policy preference, clear shift to actually treat water as a heritage, while still financing the pipes and plants that make access real.

V. Conclusion

At first glance, Article 9 of the WFD seems straightforward. Recover the costs of water services, reflect environmental impacts, and use pricing to encourage more responsible use. But once we look closer, the simplicity fades.

What costs are we really talking about? Who is expected to bear them? And how far can pricing go before it starts to undermine access to something as essential as water?

These questions do not have clear answers, and that is exactly where the limits of Article 9 begin to appear. The Directive sets out an ambition, but leaves its most difficult choices to the Member States. In practice, this means that cost recovery is influenced as much by political decisions and institutional capacity as by legal rules.

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[72] CAMDESSUS, M. (Chair). 2003. *Financing Water for All: Report of the World Panel on Financing Water Infrastructure.* Marseille : World Water Council and Global Water Partnership, 2003.

[73] CARRARD, N., WILLETTS, J., KOME, A., MUNANKAMI, R. 2024. Sustainable cost recovery principles can drive equitable funding. In: *npj Clean Water*. 2024. DOI: 10.1038/s41545-024-00399-2, p. 1.

[74] OECD, *Managing Water for All: An OECD Perspective on Pricing and Financing—Key Messages for Policy Makers*, Paris: OECD, 2009.

[75] CARRARD, N., WILLETTS, J., KOME, A., MUNANKAMI, R. 2024. Sustainable cost recovery principles can drive equitable funding. In: *npj Clean Water*. 2024. DOI: 10.1038/s41545-024-00399-2, p. 2.

[76] OECD. 2009. *Managing Water for All: An OECD Perspective on Pricing and Financing—Key Messages for Policy Makers*, Paris : OECD, 2009.

Water is seen as a shared resource that should be protected and accessible, yet it is managed through economic tools such as pricing and cost allocation. This creates a constant balancing need. Push too far towards cost recovery, and affordability becomes a problem. Move too far in the other direction, and the system risks becoming financially unsustainable.

We see this tension in everyday situations. A small rural community facing higher service costs because of its location, or a regulator deciding whether tariffs can be increased in the middle of economic hardship, or a household that can technically access water, but struggles to afford it. These are not abstract problems. They are the points where Article 9 meets reality.

This is why the question is not whether cost recovery is necessary. It is. The real question is how it is applied, and under what conditions. Cost recovery cannot function as a standalone rule. It needs to be embedded in a system that takes into account social limits, environmental objectives and long-term sustainability.

Article 9 is less a fixed rule and more a framework. Because it creates space rather than closing it. This means that it allows different approaches, but it does not ensure that the balance will be achieved. That depends on governance, on how decisions are made, and on whether affordability is treated as a real limit or only as a secondary concern.

So perhaps the final question is not whether Article 9 works, but whether it asks the right question. Instead of focusing only on recovering costs, should the focus be on how those costs are shared? And if water is truly not a commercial product like any other, can it ever be governed as if it were?

Resources:

1. ALESSI, M., TREYER, S. 2013. Economic models and water pricing towards water efficiency. In: *Intereconomics*, 2013, vol. 48, no. 3.
2. ANASTASI, F. 2022. An outline on the right to water in the EU system. In: *European Studies – The Review of European Law, Economics and Politics*, 2022, vol. 9. DOI: 10.2478/eustu-2022-0061.
3. BAKKER, K. 2010. *Privatizing Water: Governance Failure and the World's Urban Water Crisis*. Ithaca : Cornell University Press, 2010.
4. BLUEMEL, E.B. 2004. The implications of formulating a human right to water. In: *Ecology Law Quarterly*, 2004, vol. 31.
5. Camdessus, M. (Chair). 2003. *Financing Water for All: Report of the World Panel on Financing Water Infrastructure*. Marseille : World Water Council and Global Water Partnership, 2003.
6. CARRARD, N., WILLETTS, J., KOME, A., MUNANKAMI, R. 2024. Sustainable cost recovery principles can drive equitable funding. In: *npj Clean Water*. 2024. DOI: 10.1038/s41545-024-00399-2.
7. Commission of the European Communities. 1973. First Environmental Action Programme. In: *Bulletin of the European Communities*, 1973. Supplement 10/73.
8. DE ALBUQUERQUE, C. 2014. *Realizing the Human Rights to Water and Sanitation: A Handbook*. 2014.
9. DE ALBUQUERQUE, C. 2014. *Report of the Special Rapporteur on the human right to safe drinking water and sanitation.* A/69/213, 2014.
10. DIRECTIVE (EU) 2020/2184 on the quality of water intended for human consumption. OJ L 435, 2020, pp. 1–62.
11. Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy. OJ L 327, 22 December 2000.
12. Directive 2007/60/EC on the assessment and management of flood risks. OJ L 288, 2007.

13. Directive 2008/105/EC on environmental quality standards in the field of water policy. OJ L 348, 2008.
14. Directive 2014/23/EU on the award of concession contracts. OJ L 94, 2014.
15. FARNAULT, A., LEFLAIVE, X. 2024. Cost Recovery for Water Services under the Water Framework Directive. In: *OECD Environment Working Papers*, no. 240, 2024.
16. FREESTONE, D., HEY, E. 1996. *The Precautionary Principle and International Law*. 1996.
17. GAWEL, E., BRETSCHNEIDER, W. 2016. *Content and Implementation of a Right to Water – An Institutional Economics Approach*. 2016.
18. HIRANO, M. Public participation in the global regulatory governance of water services. In: *Utilities Policy*, 2016, vol. 43.
19. KAIKA, M., PAGE, B. 2003. The EU Water Framework Directive: Part I. In: *European Environment*, 2003, vol. 13, no. 6.
20. KAIKA, M. 2003. The Water Framework Directive: A new directive for a changing European framework. In: *European Planning Studies*. 2003, vol. 11, no. 3.
21. LEE, M. 2009. *EU Environmental Law: Challenges, Change and Decision-Making*. Oxford : Hart Publishing, 2009.
22. LEFLAIVE, X., HJORT, M. 2020. Addressing the Social Consequences of Tariffs for Water Supply and Sanitation. In: *OECD Environmental Working Papers*, 2020, no. 166.
23. MARQUES, R.C. 2010. *Regulation of Water and Wastewater Services: An International Comparison*. London : IWA Publishing, 2010.
24. MONTALDO, R. 2022. Water protection law and the human right to water from the perspective of EU law. In: MILANOVIC, M., BEHRMAN, S. (eds.). 2022. *The Human Right to Water: Legal and Policy Dimensions*. Oxford : Oxford University Press, 2022.
25. MURTHY, S.L. 2013. The human right(s) to water and sanitation. In: *Berkeley Journal of International Law*, 2013, vol. 31, no. 1.
26. OECD. 2009. *Managing Water for All: An OECD Perspective on Pricing and Financing—Key Messages for Policy Makers*. Paris : OECD, 2009.
27. OECD. 2022. *Financing a Water Secure Future*. Paris : OECD, 2022. DOI: 10.1787/a2ecb261-en.
28. OECD. 2021. *Financing Water Supply, Sanitation and Flood Protection*. Paris : OECD, 2021.
29. OECD. 2009. *Managing Water for All: An OECD Perspective on Pricing and Financing*. Paris : OECD, 2009.
30. OECD. 2015. *The Governance of Water Regulators*. Paris : OECD, 2015.
31. PAHL-WOSTL, C., KNIEPER, C. 2023. Pathways towards improved water governance. In: *Environmental Science & Policy*, 2023, vol. 144.
32. SANDS, P., 2012. *Principles of International Environmental Law*.
33. SCOTT, J. 2015. The geographical scope of the EU's climate responsibilities. In: *Cambridge Yearbook of European Legal Studies*. 2015.
34. STRONG, C., KUZMA, S., VIONNET, S., REIG, P. 2023. *Achieving Abundance: Understanding the Cost of a Sustainable Water Future*. Washington, DC : World Resources Institute. 2023.
35. SZABÓ, I. 2019. The European Governance of the Water Sector – Contentious Policy Agendas Triggering Transnational Reactions. *Conference publication*. European Research Council, 2019.
36. SZILÁGYI, J., E. 2015. A vízjogi szabályozási csomópontok továbbfejlesztésének lehetőségei. In: *Pro Futuro*. 2015, 5, 2.
37. UN Committee On Economic, Social And Cultural Rights. 2002. *General Comment No. 15: The Right to Water*. E/C.12/2002/11. 2002.
38. UN General Assembly. 2015. *Transforming Our World: the 2030 Agenda for Sustainable Development*. A/RES/70/1. 2015.
39. UN General Assembly. 2000. *United Nations Millennium Declaration*. A/RES/55/2, 2000.
40. UN High Commissioner For Human Rights. 2007. *Report on the Scope and Content of Human Rights Obligations Related to Access to Water*. A/HRC/6/3, 2007.

41. United Nations. 1977. *Report of the United Nations Water Conference*. E/CONF.70/29. 1977.
42. UNICEF/WHO. 2015. *Progress on Sanitation and Drinking Water: 2015 Update*. 2015.
43. UNNERSTALL, H. 2007. The principle of full cost recovery in the EU Water Framework Directive. In: *Journal of Environmental Law*, 2007, vol. 19, no. 1.
44. VAN DEN BERGE, J., BOELENS, R., VOS, J. 2020. How the European citizens' initiative changed EU discourse on water services. In: *Utrecht Law Review*. 2020, vol. 16, no. 2.
45. WINKLER, I.T. 2012. *The Human Right to Water: Significance, Legal Status and Implications for Water Allocation*. Oxford : Hart Publishing, 2012.
46. WINPENNY, J. 2003. *Financing Water for All: Report of the World Panel on Financing Water Infrastructure*. World Water Council. 2003.