



south  
western  
river basin district



# The EU Water Framework Directive & Irish Ports

## Exemptions to WFD Objectives

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## Water Framework Directive – Article 4: Environmental Objectives

Article 4 is the heart of the WFD, aiming to achieve protection of our waters as part of sustainable management but also takes account of social and economic needs and realities.

# Water Framework Directive – Article 4: Environmental Objectives

## 1. Programme of measures

### (a) Surface waters:

- no deterioration
- good status by 2015
- good ecological potential for HM&AWBs by 2015
- reduce pollution by priority substances

### (b) Groundwater

- no deterioration
- good status by 2015 – quantity and quality
- reduce pollution by priority substances

### (c) Protected areas – achieve compliance

# Water Framework Directive – Article 4: Environmental Objectives

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- no deterioration
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### (b) Groundwater

- no deterioration
- good status by 2015 – quantity and quality
- reduce pollution by priority substances

### (c) Protected areas – achieve compliance

## 2. Most stringent of objectives shall apply

## Water Framework Directive – Article 4: Environmental Objectives

### 3. Designate as heavily modified or artificial water body if:

- (a) achieving good status had significant adverse effects on
- the wider environment
  - navigation, including ports or recreation
  - drinking water supply, power generation, irrigation
  - flood protection, land drainage
  - other sustainable human development activities
- (b) beneficial objectives cannot, for reasons of technical feasibility or disproportionate costs, reasonably be achieved by other means, which are a significantly better option

## Water Framework Directive – Article 4: Environmental Objectives

### **4. Deadlines may be extended, provided no further deterioration, if**

- (a) at least one of the following
  - scale of improvements can only be achieved in phases because of technical feasibility
  - disproportionately expensive
  - natural conditions do not allow timely improvement
- (b) extension of deadline and reasons must be in RBMP
- (c) extension limited to 2027
- (d) summary of measures, reasons and timetable shall be in RBMP

## Water Framework Directive – Article 4: Environmental Objectives

**5. Member States may aim to achieve less stringent objectives for specific water bodies so affected by human or natural conditions that achievement of full WFD objectives would be infeasible or disproportionately expensive and all the following conditions are met:**

- (a) environmental and socioeconomic needs cannot be achieved by other means which are a significantly better environmental option not entailing disproportionate costs;
- (b) Member States ensure that for surface waters and groundwaters highest status possible is achieved, given impacts which could not reasonably have been avoided due to nature of human activity or pollution.
- (c) No further deterioration
- (d) Details in RBMP

## Water Framework Directive – Article 4: Environmental Objectives

### **6. Temporary deterioration not a breach if a result of natural cause, e.g. flood, drought or unforeseen accidents when**

- (a) All practical steps are taken to prevent further deterioration
- (b) Conditions are exceptional or unforeseen – indicators stated in RBMP
- (c) Measures included in programme of measures
- (d) Review effects annually
- (e) Summarise effects, measures in next RBMP

## Water Framework Directive – Article 4: Environmental Objectives

**7. Member States shall not be in breach where failure to achieve good status or potential or prevent deterioration is caused by changes or failure to prevent deterioration from high to good status is the result of new sustainable human development activities and all the following conditions are met:**

- (a) All practical steps taken to mitigate impact
- (b) Reasons for changes are set out in RBMP
- (c) Reasons for changes are of overriding public interest
- (d) Benefits of changes cannot for reasons of technical feasibility or disproportionate cost be achieved by other means which are a significantly better environmental option

## Water Framework Directive – Article 4: Environmental Objectives

- 8. Exemptions should not compromise achievement of objectives for other water bodies.**
- 9. Exemptions must guarantee at least same level of protection as existing Community legislation.**

**Will measures required by  
Community legislation  
be sufficient to achieve  
good status?**

**No ↓**

**Is it technically infeasible  
to make necessary  
improvements to achieve  
good status by 2015 or as  
soon after as natural  
conditions permit?**

**No ↓**

**Would it be  
disproportionately  
expensive to complete  
improvements by 2015 or  
as soon after as natural  
conditions permit?**

**No ↓**

**(a) Good status by 2015;  
or  
Extended deadline  
(b) Good status as soon  
as natural conditions  
permit after 2015**

## **Article 4.4 Extension of deadlines to achieve good status**

## Article 4.4 Extension of deadlines to achieve good status

Will measures required by Community legislation be sufficient to achieve good status?

No ↓

Is it technically infeasible to make necessary improvements to achieve good status by 2015 or as soon after as natural conditions permit?

Yes →

Is it technically infeasible to make necessary improvements to achieve good status by 2021 or as soon after as natural conditions permit?

No ↓

Would it be disproportionately expensive to complete improvements by 2015 or as soon after as natural conditions permit?

Yes →

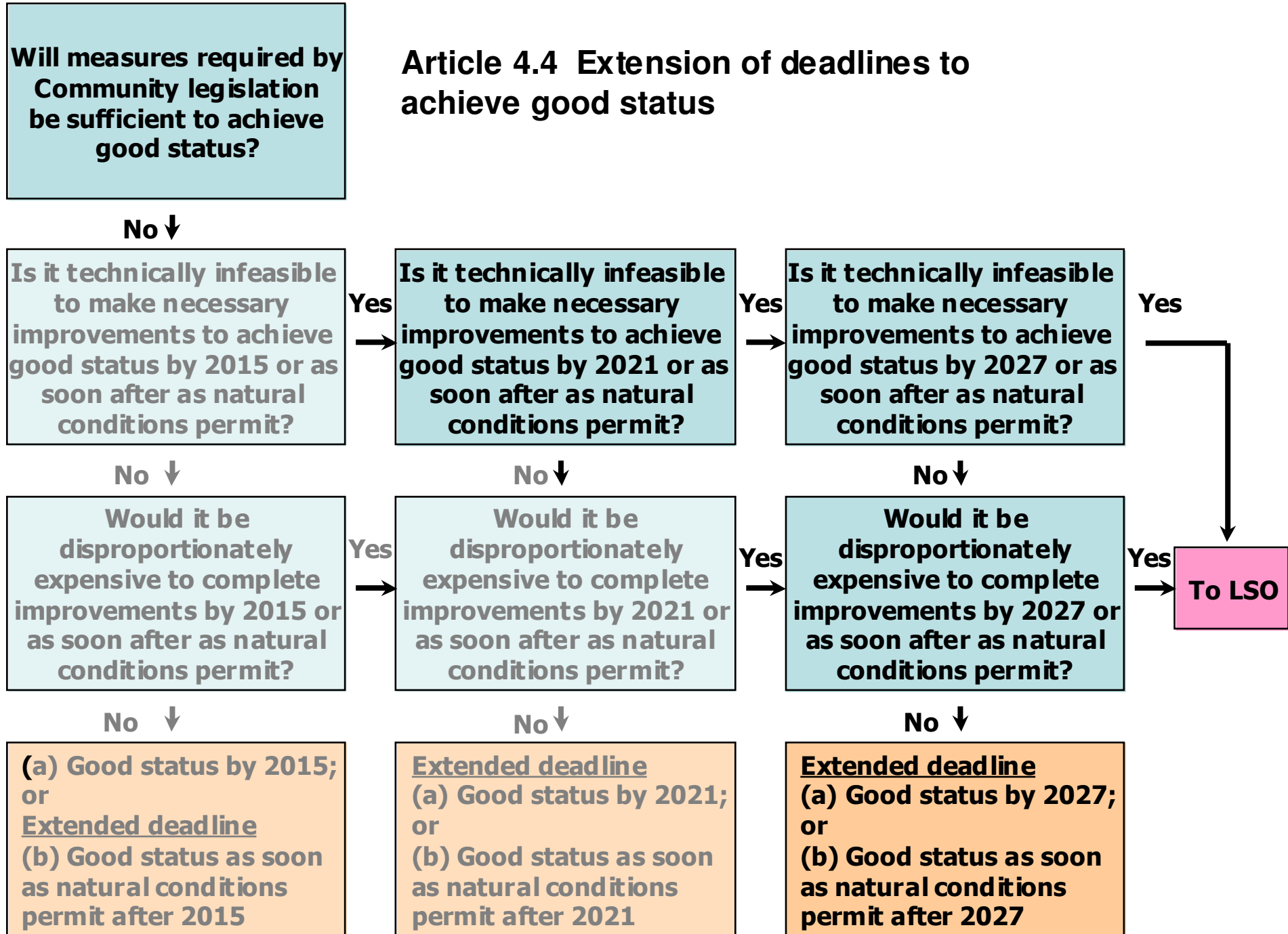
Would it be disproportionately expensive to complete improvements by 2021 or as soon after as natural conditions permit?

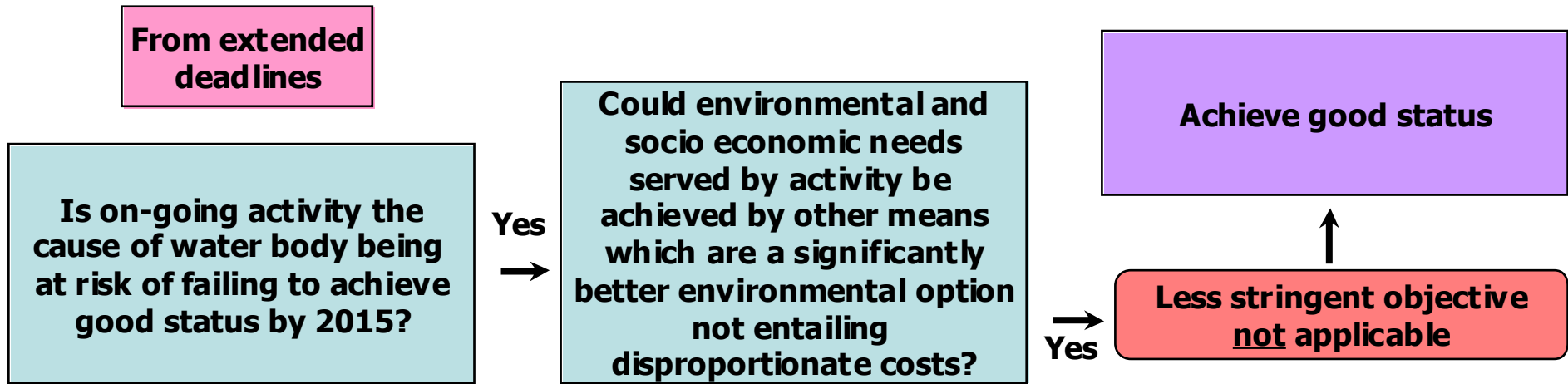
No ↓

(a) Good status by 2015;  
or  
Extended deadline  
(b) Good status as soon as natural conditions permit after 2015

Extended deadline  
(a) Good status by 2021;  
or  
(b) Good status as soon as natural conditions permit after 2021

## Article 4.4 Extension of deadlines to achieve good status





## Article 4.5 Less stringent objectives

From  
Figure 1

Is on-going activity the cause of water body being at risk of failing to achieve good status by 2015?

Yes →

Could environmental and socio economic needs served by activity be achieved by other means which are a significantly better environmental option not entailing disproportionate costs?

↓ No

No →

Less stringent objective applicable

Yes →

Less stringent objective not applicable

↑

Achieve good status

Article 4.5 Less stringent objectives

From Figure 1

Is on-going activity the cause of water body being at risk of failing to achieve good status by 2015?

Yes →

Could environmental and socio economic needs served by activity be achieved by other means which are a significantly better environmental option not entailing disproportionate costs?

Yes →

Achieve good status

↑

Less stringent objective not applicable

No ↓

Less stringent objective applicable

↓

Is it infeasible to make any additional improvements to the status of the water body?

Yes →

Less stringent objective: no improvement but protect status against further deterioration

Article 4.5 Less stringent objectives

From Figure 1

Is on-going activity the cause of water body being at risk of failing to achieve good status by 2015?

Yes →

Could environmental and socio economic needs served by activity be achieved by other means which are a significantly better environmental option not entailing disproportionate costs?

Yes →

Achieve good status

Less stringent objective not applicable



No ↓

Less stringent objective applicable



Is it infeasible to make any additional improvements to the status of the water body?

Yes →

Less stringent objective: no improvement but protect status against further deterioration

No ↓

Identify additional improvements, if any, that can be made without disproportionate expense

→

Less stringent objective: expected improvement in status & date for its achievement

Article 4.5 Less stringent objectives

## Water Framework Directive – Article 4: Environmental Objectives

Deciding whether achieving good status would be disproportionately expensive is ultimately a **political judgement informed by an economic analysis**.

“Negative distributional impacts” is the criterion when looking into ability to pay.

Difficult to argue that distributional consequences play a role in applying less stringent objectives, but they can play a role in justification for phasing of measures to meet good status.

Step-wise approach to take distributional effects into consideration in the context of disproportionality

**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**

**Who pays for what?**



**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**



**Can it be demonstrated that the costs of the measures - excluding those from other EU legislation - exceed the benefits significantly?**

Other legislation would include protected areas.



**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**



**Can it be demonstrated that the costs of the measures - excluding those from other EU legislation - exceed the benefits significantly?**

Yes



**An exemption on the basis of disproportionality is allowed, if the other conditions for applying exemptions are fulfilled.**

**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**



**Can it be demonstrated that the costs of the measures - excluding those from other EU legislation - exceed the benefits significantly?**

No ↓

**Are there negative distributional effects in terms of disproportionately expensive measures for those who have to take them?**

Yes



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**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**



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No



**No exemption can be applied on the basis of disproportionality.**

Negative distributional effects should be addressed inside Member States, taking account of polluter pays principle.

**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**



**Can it be demonstrated that the costs of the measures - excluding those from other EU legislation - exceed the benefits significantly?**



**An exemption on the basis of disproportionality is allowed, if the other conditions for applying exemptions are fulfilled.**



**Are there negative distributional effects in terms of disproportionately expensive measures for those who have to take them?**



**No exemption can be applied on the basis of disproportionality.**



**Can it be demonstrated that these effects cannot be addressed with alternative financing mechanisms?**



**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**



**Can it be demonstrated that the costs of the measures - excluding those from other EU legislation - exceed the benefits significantly?**

Yes  
←

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Yes ↓

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No →

Yes ↓

**If the phasing of the implementation of the measures were allowed beyond 2015, would this result in the measures still being disproportionately expensive for certain sectors or groups?**

No →

**Assess costs and benefits of measures.**



**Assess distributional effects of measures.**



**Can it be demonstrated that the costs of the measures - excluding those from other EU legislation - exceed the benefits significantly?**

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**If the phasing of the implementation of the measures were allowed beyond 2015, would this result in the measures still being disproportionately expensive for certain sectors or groups?**

No →

**Must be included in the RBMP.**

Yes ↓

**extension of deadline, in line with conditions for application of exemptions.**

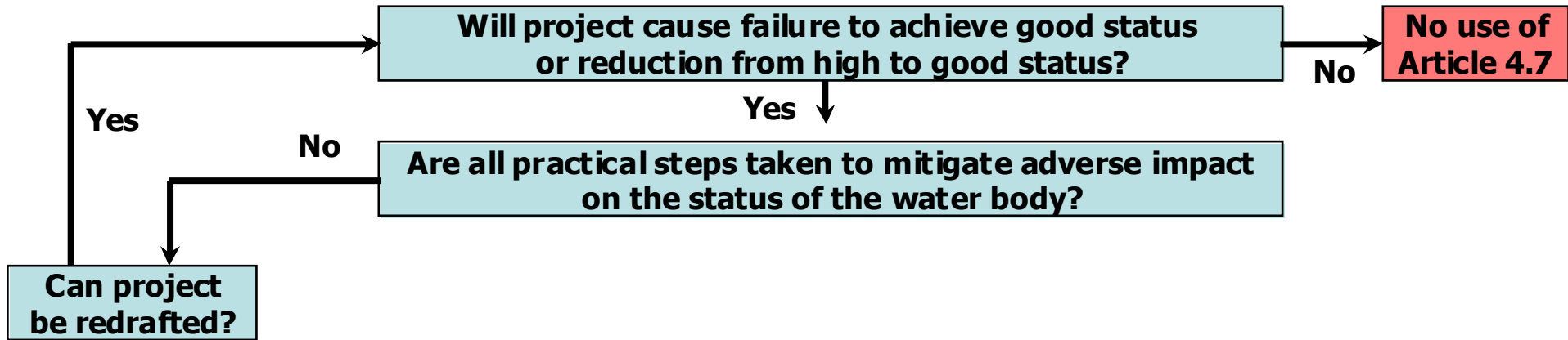


**Will project cause failure to achieve good status  
or reduction from high to good status?**

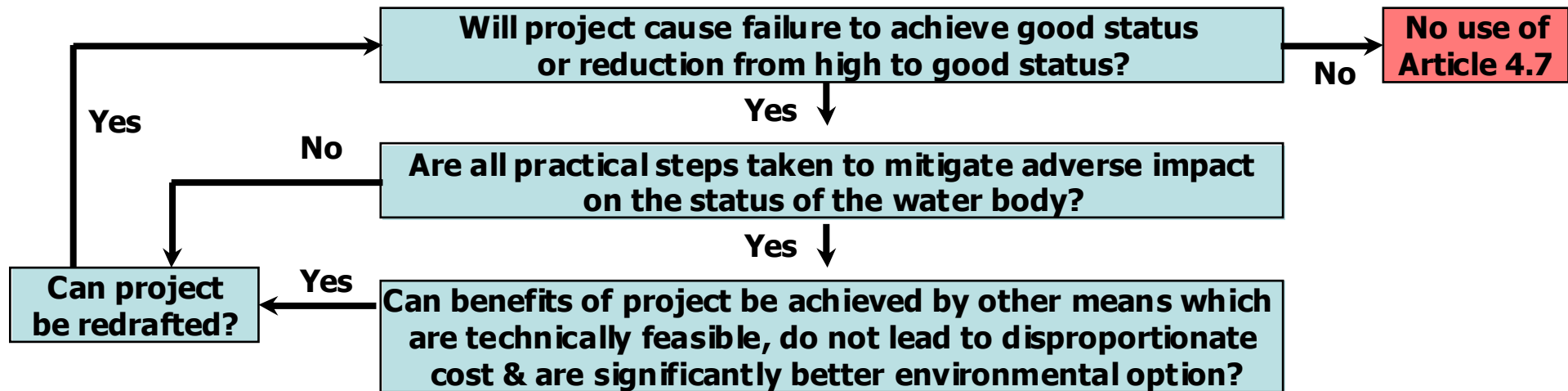
**No**

**No use of  
Article 4.7**

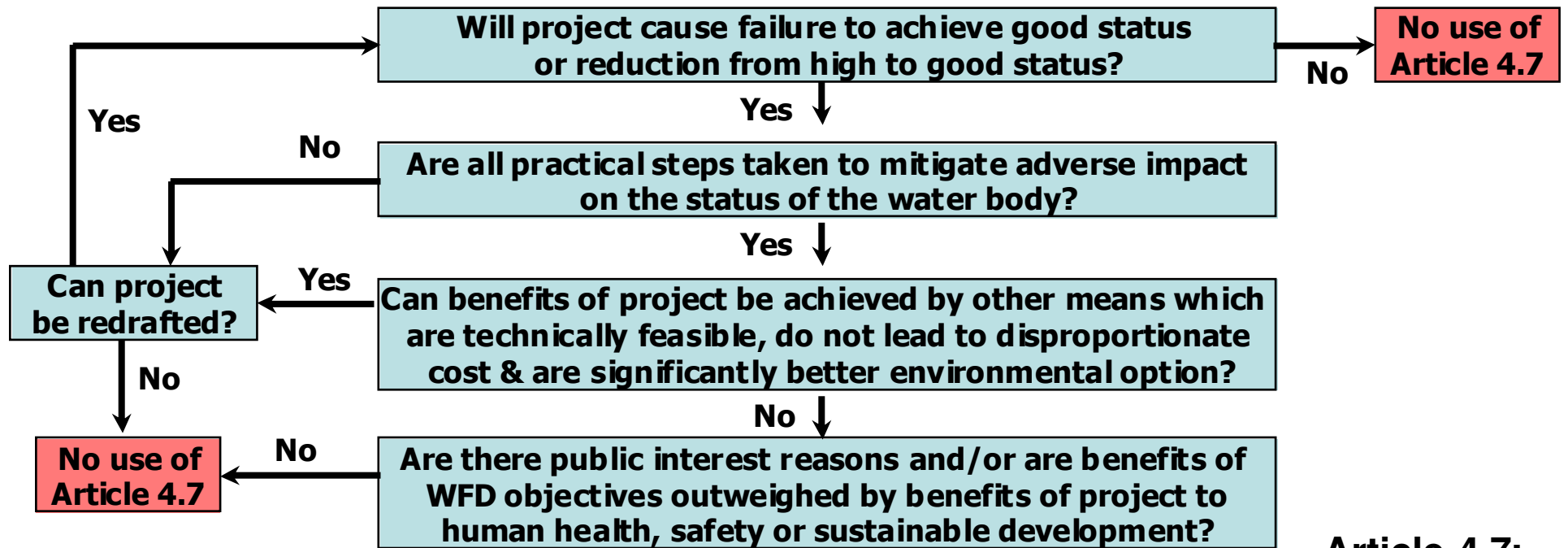
**Article 4.7:  
New works**



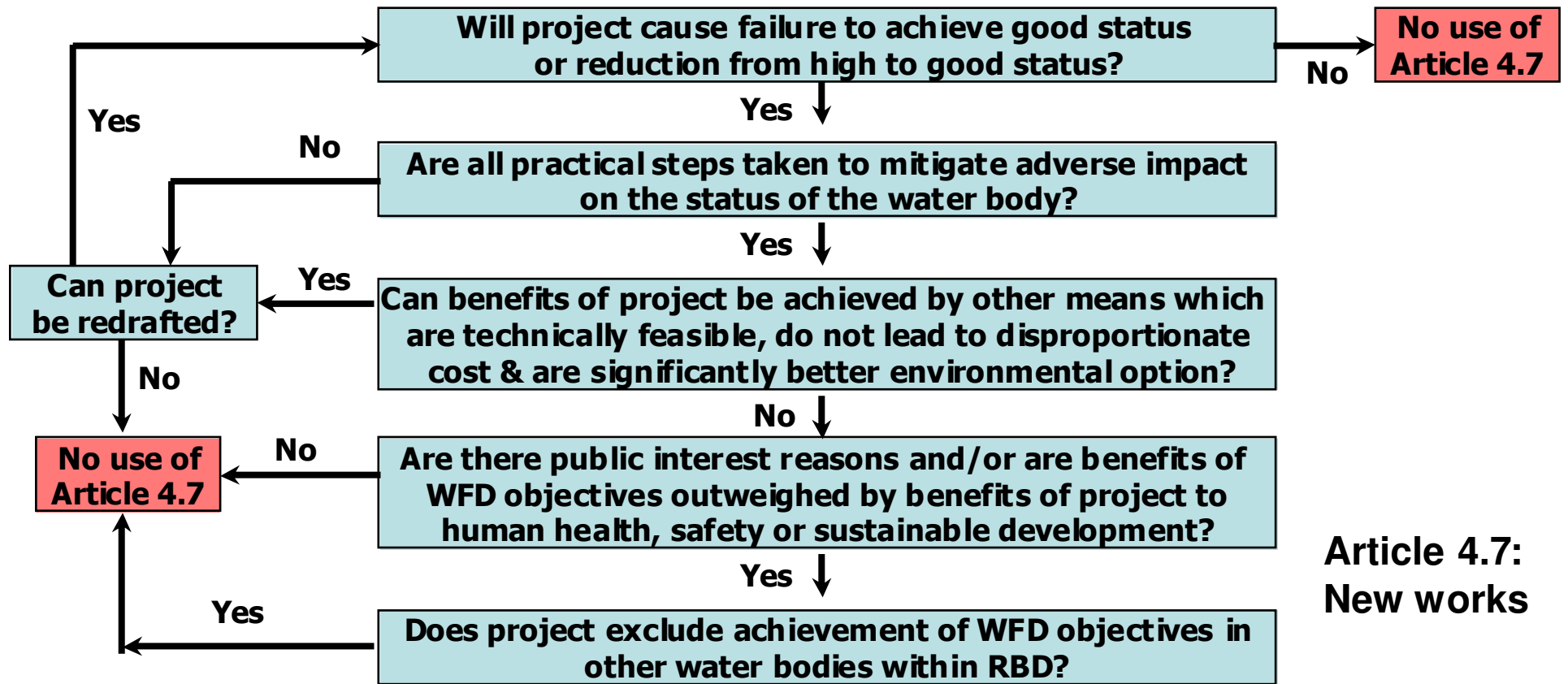
## Article 4.7: New works



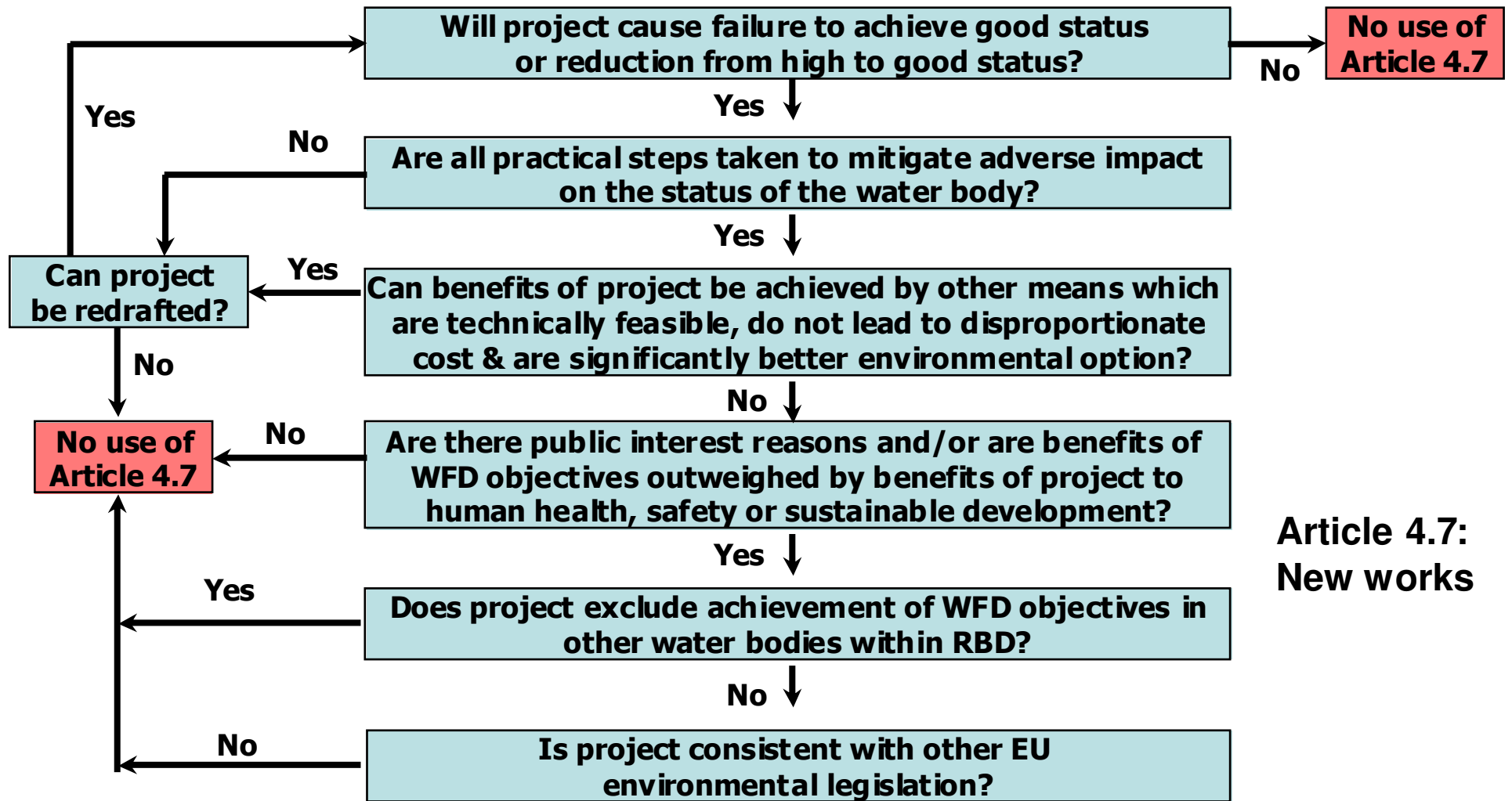
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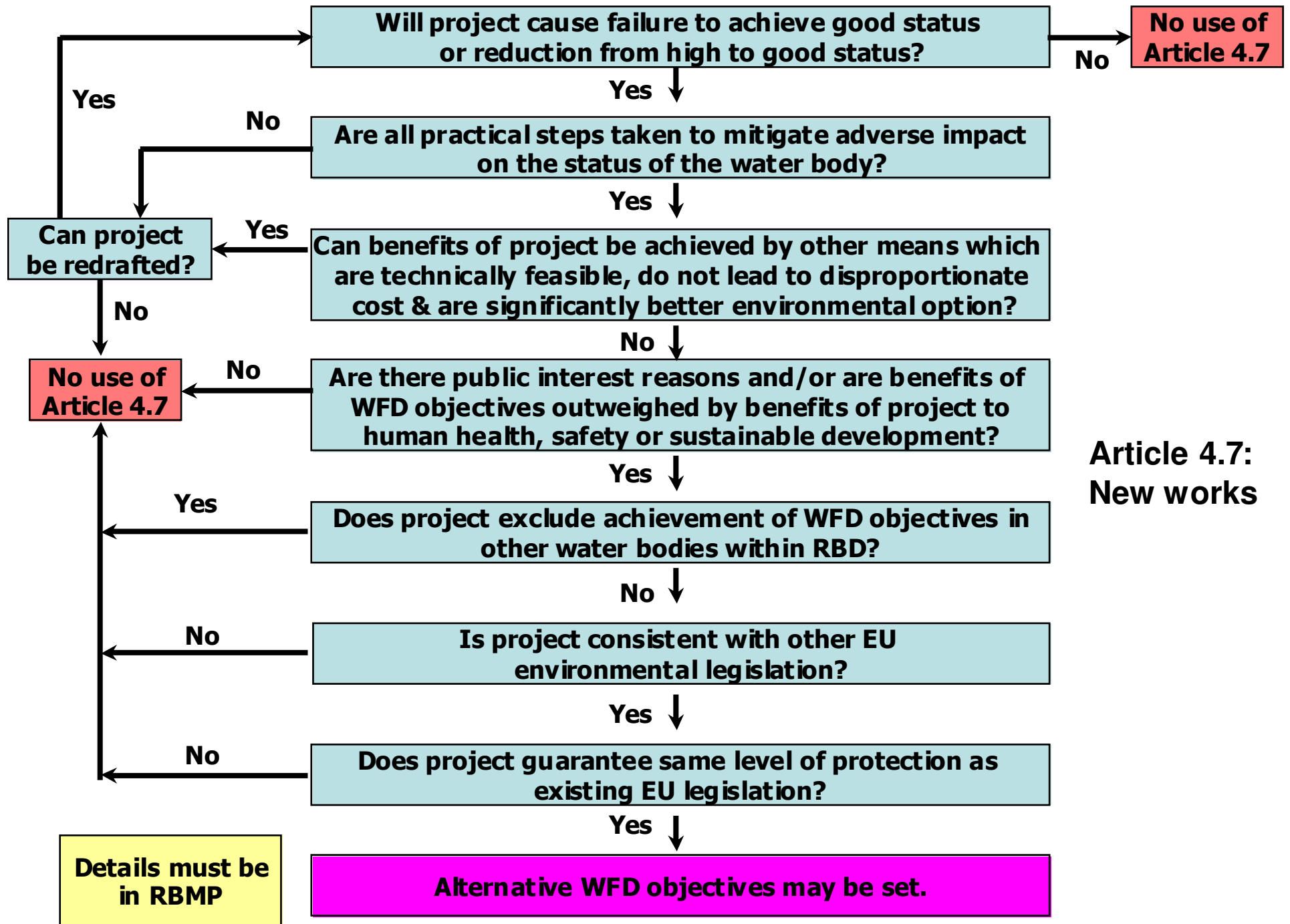
**Article 4.7:  
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## Conclusions

Possibility for exemptions exists.

Exemptions must be fully justified.

There will be time limits to most exemptions.

Exemptions must be written into River Basin Management Plans.