

Current issues in Labour's economic policy

7. Water, food and forests

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**“Thousands have lived without love,
not one without water.”**

WH Auden, *First Things First* (1956)

‘Public services should be in public hands, not making profits for shareholders. **Support common ownership of** rail, mail, energy and **water**’.

- Keir Starmer pledge 5.

‘Labour will create nine new **National River walks**, one in each region of England, and establish **three new National Forests in England, whilst planting millions of trees** and creating new woodlands.... **Labour will put failing water companies under special measures to clean up our water.** We will give regulators new powers to block the payment of bonuses to executives who pollute our waterways and bring **criminal charges against persistent law breakers.** We will impose automatic and severe fines for wrongdoing and ensure independent monitoring of every outlet... We will introduce a land-use framework and **make environment land management schemes work for farmers and nature.**’

- Manifesto pp. 58-9

(1) Pledges – in summary

(a) Put **failing water companies in “special measures”**.
Criminal prosecution of law breakers or polluters.

(b) ‘Support **common ownership of.. water**’

(c) **Environmental Land Management** to work for nature and farmers, **9 new river walks, ‘millions’ of new trees, 3 new forests**

(2) Human rights (3) Legal background (4) International rank, data (5) Reform models (6) Benefits, costs

(2) Human rights

- **‘Everyone has the right to** a standard of living adequate for the **health and well-being** of himself and of his family, **including food....’** Universal Declaration of Human Rights 1948 art 25(1)
- **Water is implicit in right to food.** ‘The human right to water entitles everyone to sufficient, **safe, acceptable, physically accessible and affordable water** for personal and domestic uses.’ UN Committee on Economic, Social and Cultural Rights (2002) General Comment No. 15
- ‘The human **right to water is indispensable** for leading a life in human dignity.’ Office of the High Comm for Human Rights 2003
- ‘The human **right to a clean, healthy and sustainable environment.**’ UN Human Rights Council, Resolution, 8 Oct 2021

But how do we achieve human rights in reality?

(3) Legal background

- (a) Water ownership and governance
- (b) Rules against pollution
- (c) 'Environmental Land Management' to replace Common Agricultural Policy

(a) Ownership and governance of water

- **Water in England is private**, in Wales run not-for profit: Water Act 1989 s 4.
 - Scottish Water is public, Scot Ministers appoint 8 to 13 directors (no workers/service-users): Water Industry (Scotland) Act 2002 s 20, Sch 3
- Ofwat (Water Services Regulation Authority) has **at least 3 members appointed by the Secretary of State** : Water Industry Act 1991 s 1
- Ofwat duties are to ‘**protect the interests of consumers**... wherever appropriate by **promoting effective competition**’ and ensure investors have ‘**reasonable returns on their capital**’, but no duties for clean water, rivers or beaches: Water Industry Act 1991 s 2
 - Water Industry Comm for Scot, aim: ‘promoting the interest of persons... connected to the public water supply’, ‘**wholesome water**’, **reasonable cost**. WISA 2002 ss 1-4
- **Ofwat can impose conditions on appointed water co’s, including prices** it thinks ‘requisite or expedient’, and direct water co’s: WIA 1991 ss 11-12
- **Ofwat can vary water co. licence terms** (co’s get 25 years notice before losing licence): WIA 1991 s 11

English privatisation in more detail

- Water Act 1989:
 - s 4, Sch 2, water **authorities transferred to successor co's**
 - s 83, **successor co's issue securities** as SS directs
 - ss 84-5, SS **lends 'such sums as he thinks fit'**; transfer debt
- During privatisation, co's were sold for **£7.6bn**, but:
 - **£6.4bn debt cancelled + aid** (worth **£16.2bn** in 2024)
 - **£85.2bn dividends paid out** to co's shareholders by 2024
 - **£65bn debt built up** by 12 co's since by **2023**
 - **£56bn for infrastructure needed**, said govt in 2022

Water (Special Measures) Bill

- cl 1, new WIA 1991 s 35B(1) that Ofwat **may make rules on water company director remuneration and governance**, and (2) it must make rules on 'performance related pay', the environment, etc.
- cl 2-3, pollution incident reduction plans must be drawn up by co's
- cl 8-9, Enviro Agency and Drinking Water Inspectorate functions
- New **amendment tabled by government** adds a WIA 1991 s 2(4A) that the SS and Ofwat should 'have regard to' duties in Climate Change Act 2008 s 1 and Environment Act 2021 s 5 → s 1 targets → Environmental Targets (Water) (England) Regulations 2023:
 - reg 5, agricultural water pollution from nitrogen, phosphorus and sediment is **40% lower by end of 2038**
 - reg 10, wastewater phosphorus is **80% lower by end of 2038**
- *i.e. soft duty to 'regard', and **no duties on the water companies** that profit from pollution. **Duties for shareholder returns etc remain.***
- cl 10-12, special admin costs = bill rises. **No duty to put co's in admin.**

(b) Rules against pollution

- Environmental Permitting (England and Wales) Regulations 2010 + Integrated Pollution Control Directive 2010/75/EU.
 - reg 8, regulated facility = water discharge, groundwater.
 - reg 12 (art 4) **water co needs a permit** to run reg. facility
 - reg 38, **offence to breach a permit's conditions.**
 - regs 2, 32, 36, the **Environment Agency enforces**, maybe
- Sewage co's have duty to 'effectually drain[..]' area: Water Industry Act 1991 s 94

... and losing licences special admin

- **Secretary of State, or Ofwat with SS**, can **petition High Court for special admin** if a co. is **'likely to be unable to pay its debts'**: WIA 1991 s 24(2)(c)
- **or breach of 'principal duty' that is 'serious enough** to make it inappropriate for the co.' to keep going s 24(2)(a). Principal duty, s 24(7) = **any licence condition**, or:
 - s 37, maintain 'efficient and economical' water supply, **'improving' mains**,
 - s 94, provide **sewerage** system, that is **'effectually drained'**
 - Sch 3, para 5 modifies the Insolvency Act 1986 s 15(5)(b) that chargeholders must get no less than value 'in the open market by a willing vendor' to **'best price which is reasonably available on a sale which is consistent with the purposes of the special administration order'** (*i.e. debt to banks can be cut*)
 - s 23(2) purposes are (a) transfer as going concern to ensure **'functions which have been vested in the co. by virtue of its appointment may be properly carried out'** and (b) carrying out functions till transfer, (2A)(a) transfer to another co. of part of undertaking to ensure activities in (7) – strategic supply.
- That means, chargeholders can get less, if needed, for 'functions' to be carried out

(c) Environmental Land Management

- Minister can give subsidies for agriculture based on broad criteria, including improving water and protecting the environment (but not yet fair wages): Agriculture Act 2020 ss 1-6
- National parks can be designated after consulting councils and planning boards: National Parks and Access to the Countryside Act 1949 s 7, Sch 1
- Forestry Commission duty to develop afforestation with adequate reserves of growing trees: Forestry Act 1967 s 8A

(4) International ranking and data

(a) Water ownership and governance

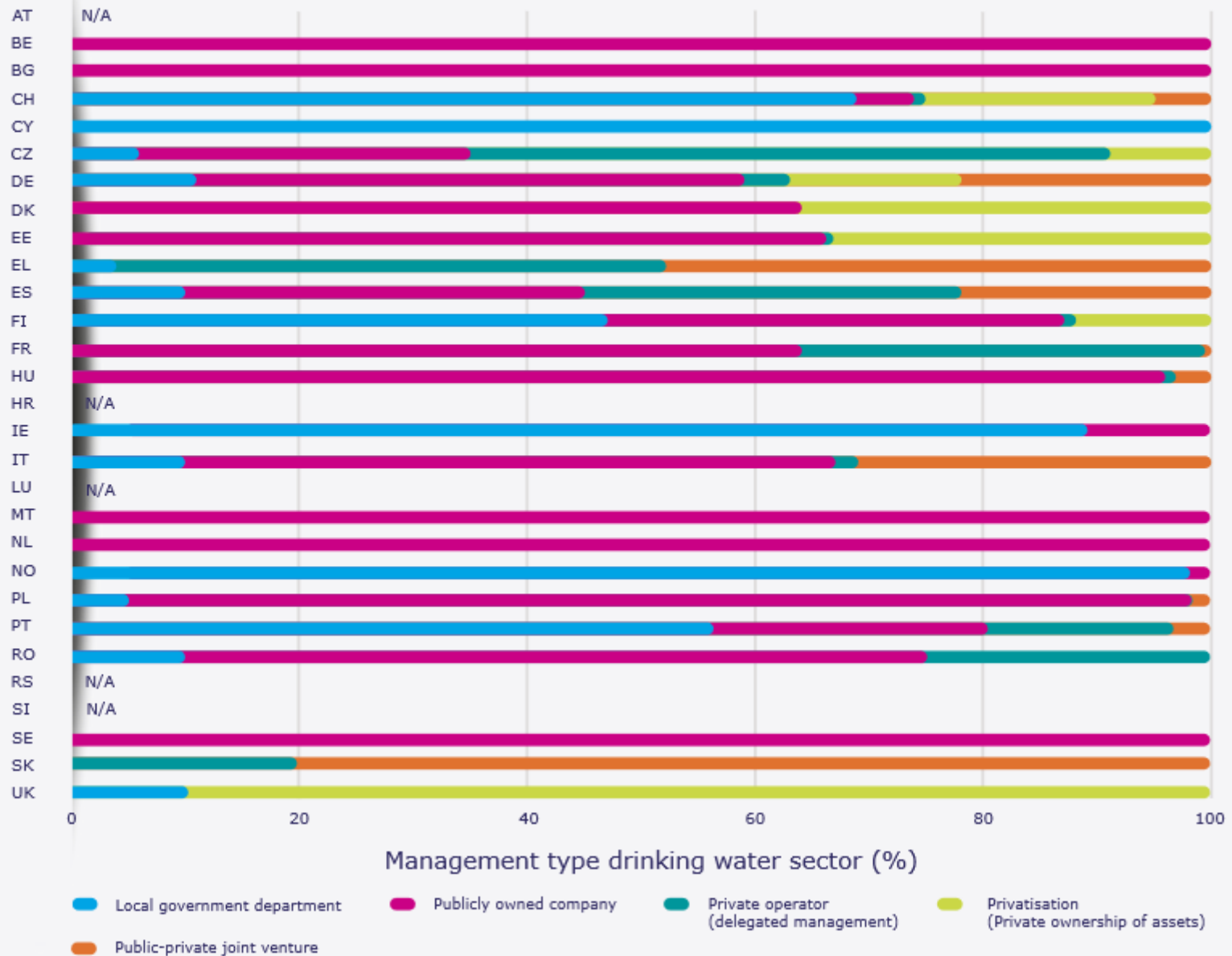
(b) Pollution and prices

(c) Agriculture and forests

EUREAU (2021) 11

Figure 8

Percentage of the population served by drinking water services for different management types

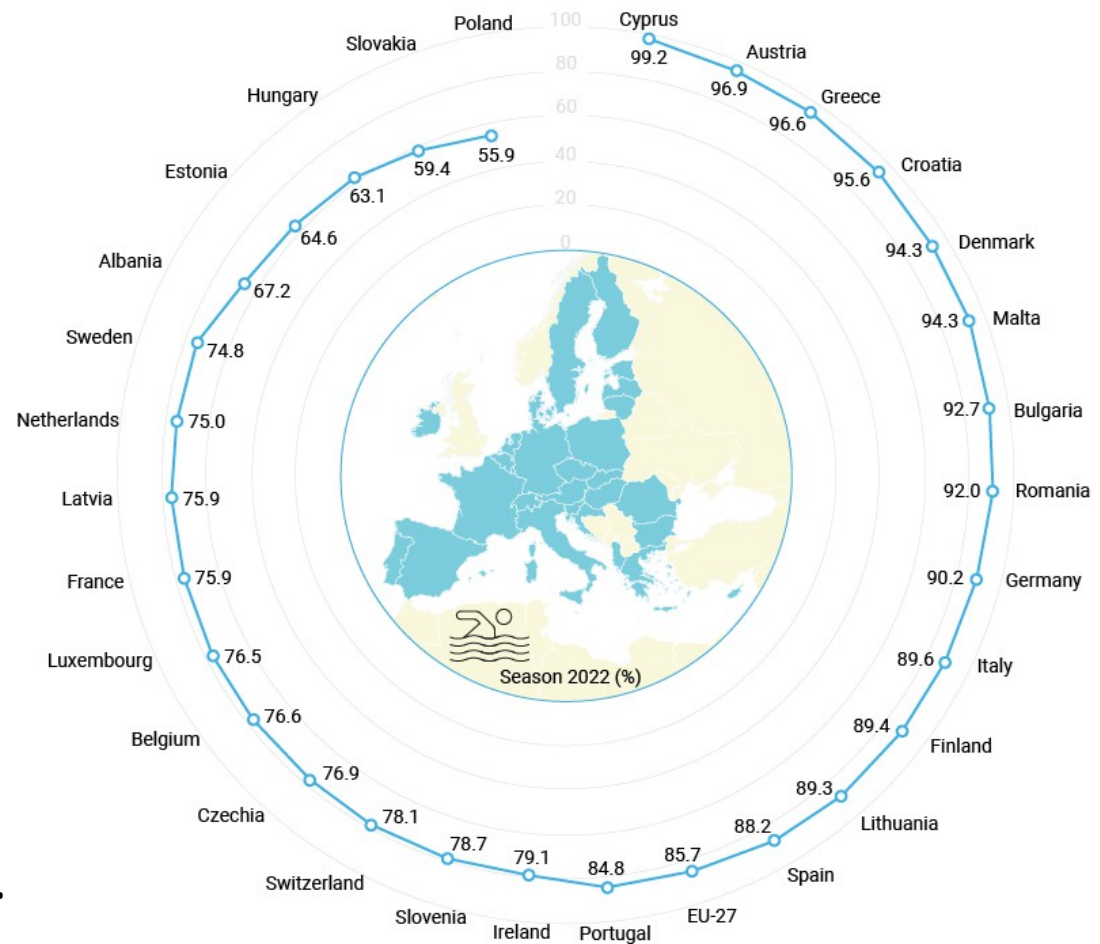


Models of governance

- Berliner Wasserbetriebe (public since 2013) has a 16 person supervisory board with **8 chosen by the Berlin council**, and **8 elected by staff**.
- Eau de Paris (public since 2009) has board of directors with **13 from councillors**, **2 staff**, **3 consumer/environment groups** (and 2 non-voting city-appointed experts).
- Groningen Waterbedrijf has 6 person board, **4 by the council**, **2 chosen by the workers council**.

Water pollution or quality

- Drinking Water Quality Directive (EU) 2020/2184 arts 4-5, **wholesome and clean water, free from mico-organisms** + Annex I. WIA 1991 s 67, SS can make regs on what is wholesome.
- Bathing Waters Directive 2006/7/EC arts 3-5. Bathing Water Regs 2013.
- *Commission v Spain* (2003) C-278/01, €624,150 fines a year enforced for bathing water quality.
- **UK rated just 66.4% of bathing waters as 'excellent' in 2023 - 5th worst in Europe**, behind Albania.

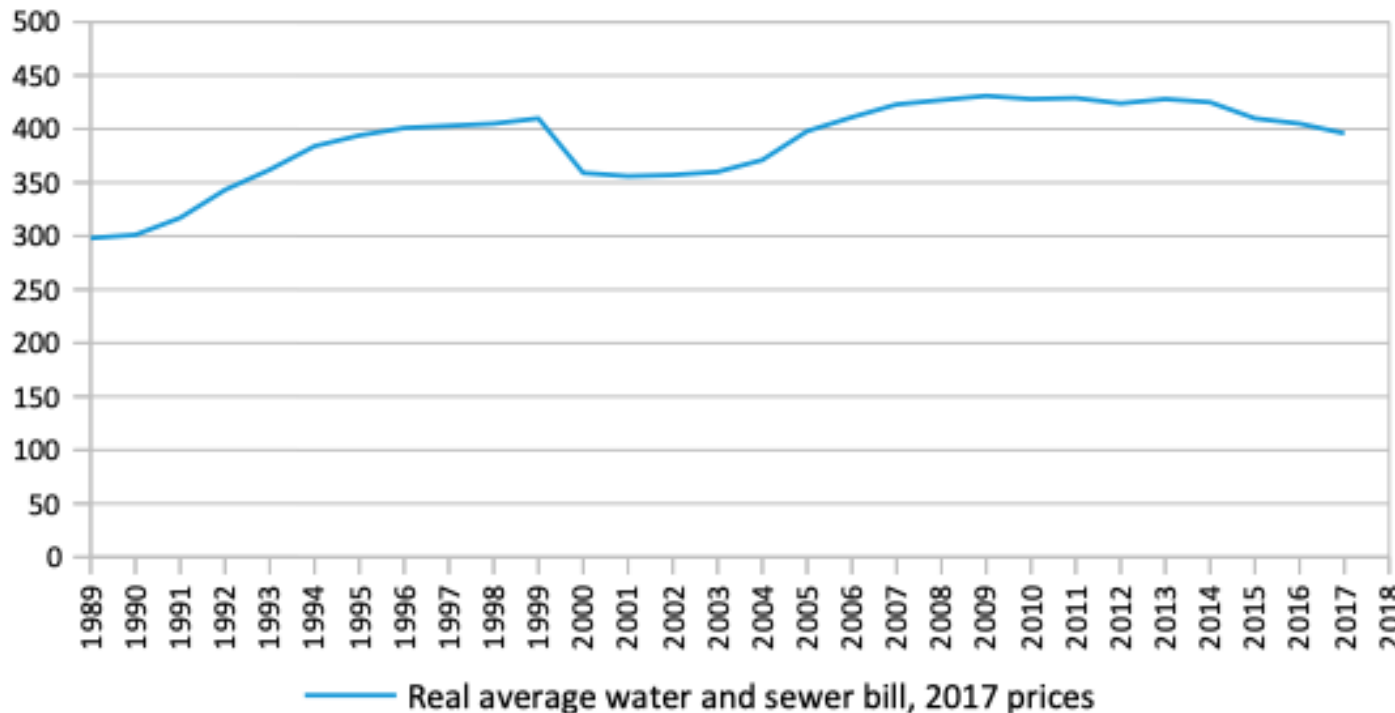


EEA, % bathing waters rated excellent (2022)

Water prices

Real average water and sewer bills in England 1989-2018

Source: Ofwat



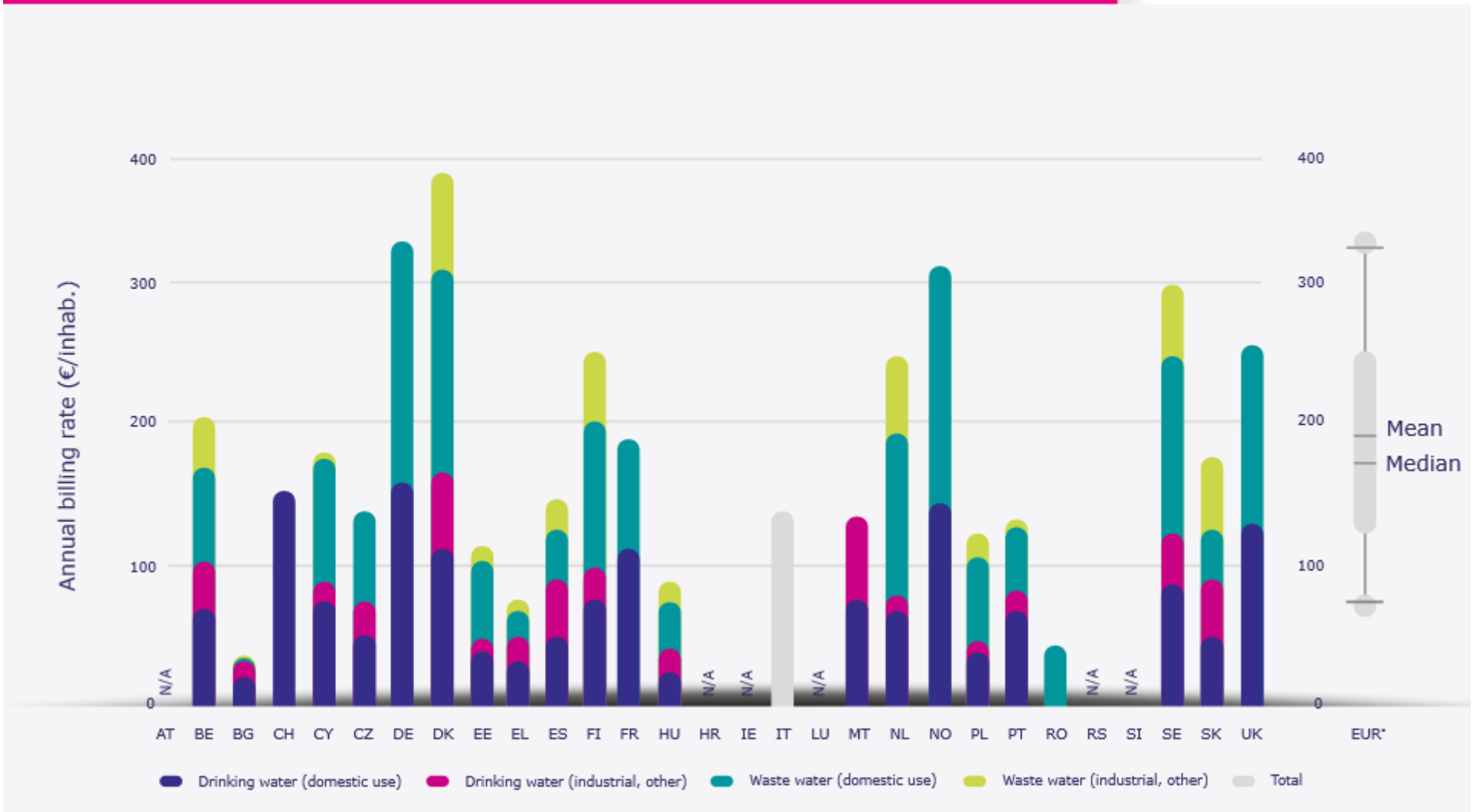
By 2030, water co's propose **40% bill rises** (nominal)
Thames Water wants 53%
Southern 84%
United Util. 32%
Severn Trent 46%
(Inflation likely to be 10-15%.)

- WIA 1991 ss 11-12, prices set in instruments of appointment. ss 13-17, CMA can investigate and change conditions.
- **Scottish water bills 10% lower than England** (2019-2023) WSA 1980 s 6(1) water at 'reasonable cost'.

UK bills 4th highest after Sweden, Norway, Denmark, Germany

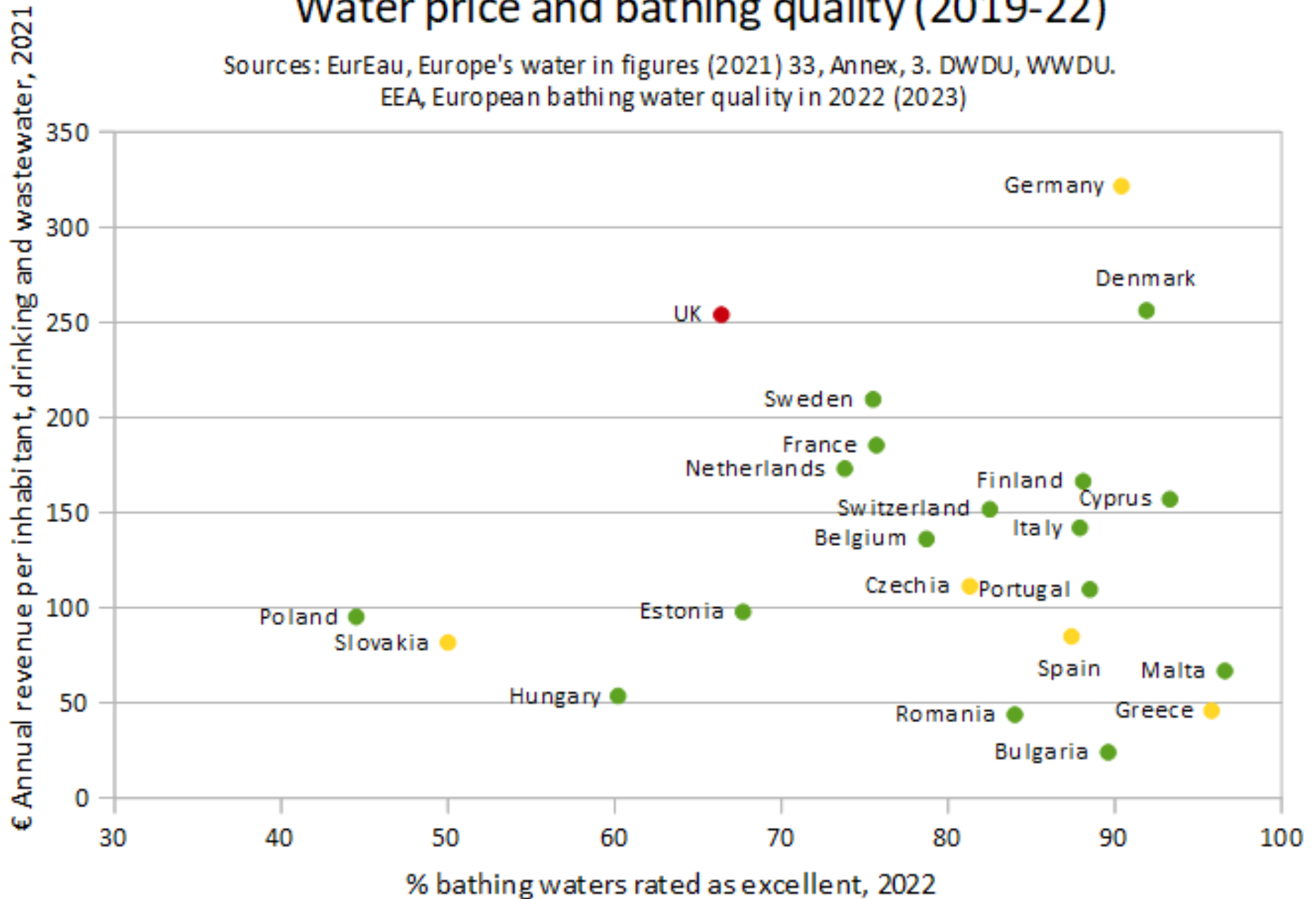
Figure 3

Annual revenue collected from the different water services per inhabitant (VAT excluded)

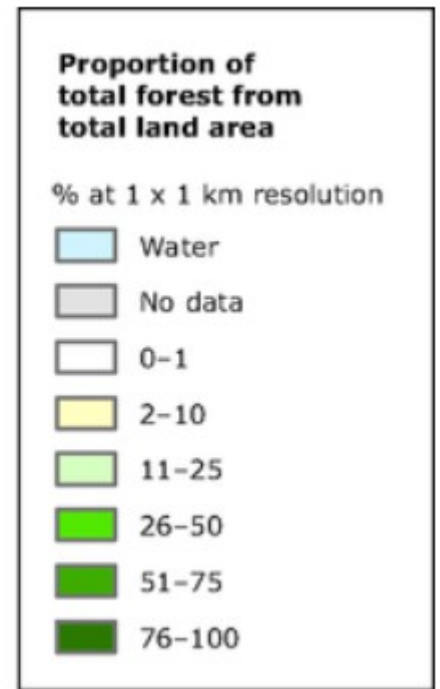
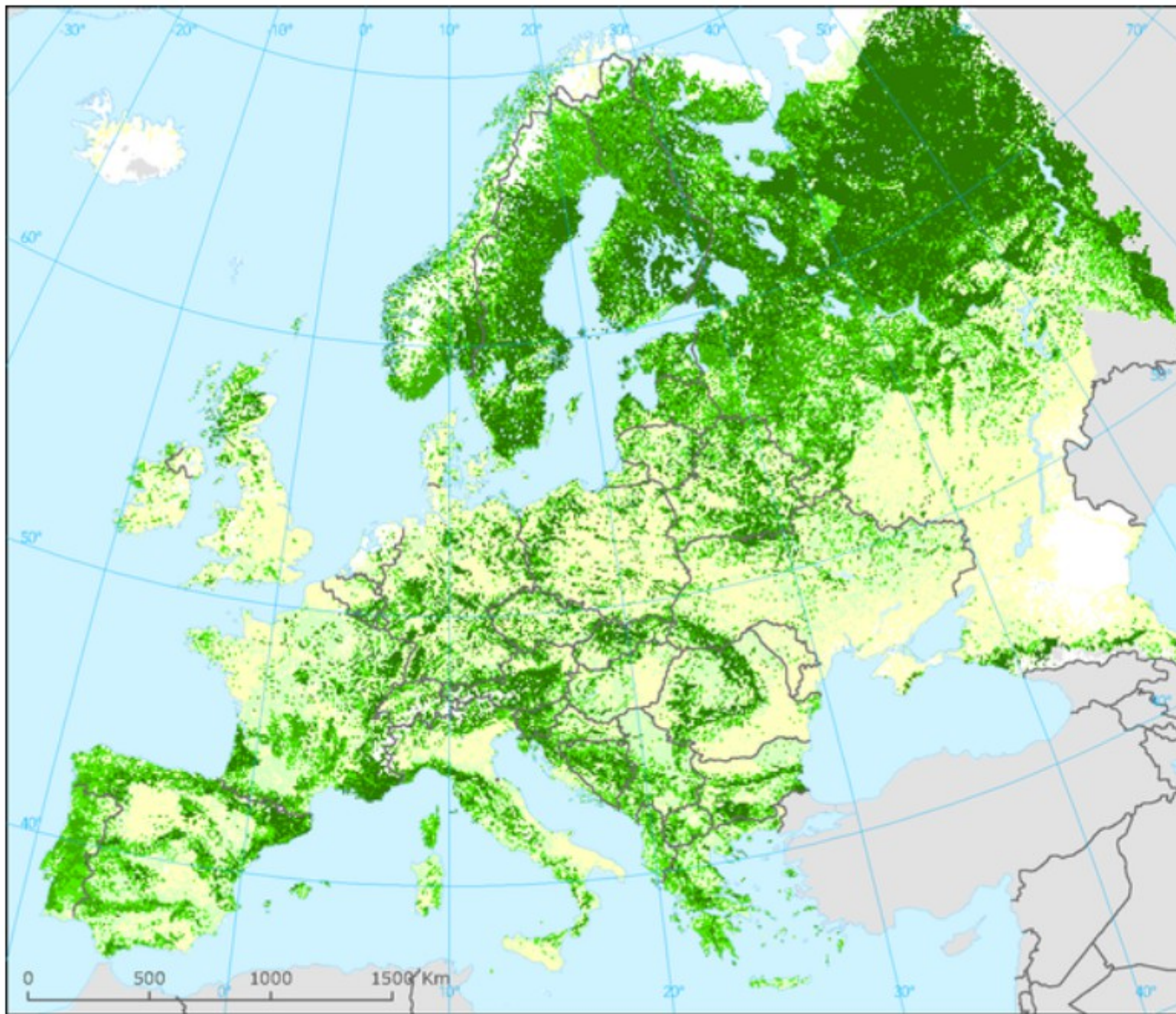


Water price and bathing quality (2019-22)

Sources: EurEau, Europe's water in figures (2021) 33, Annex, 3. DWDU, WWDU.
EEA, European bathing water quality in 2022 (2023)



● = over 60% public ● = mixed (PPPs, delegated, etc) ● = most privatised



3 new national forests in:
Surrey Hills,
Dorset,
Northumberland?

1086, English woods 15%. **1905, 5.2%**. Forestry Act 1919 → **10.1% woods in 2021**.

Tree cover higher, 12.8%/14.5%. 16.5% by 2050 target. CCC recommends **17.5%** by 2050.

UK-wide: 1905, 4.7% → **13.2%** in 2021. CCC target 18% by 2050.

(5) Models and options for reform

- Make **failed water companies lose licences**, and scrap debts in special administration + ban re-privatisation of water: Dutch Water Supply Act No. 517 of 2004 art 3j
- Change **Ofwat's duties to focus on clean water**, not shareholder returns or fake competition: Water Industry (Scot) Act 2002 ss 1-4
- Require water companies (public or private) to have **at least ½ worker and service-user elected directors**: Berlin, Paris etc
- Properly **fund Environment Agency**, reversing the cut to its £170m budget in 2010 to £76m in 2020 (it would be £254m by CPI in 2024)
- **Subsidies given to farms come with conditions** of fair pay, clean water, no pollution, through ELMs: old Common Agricultural Policy
- **Expand national parks, restore woods to 18% of UK land** now CCC 2020, 30k ha p.a. to 2035, 50k ha p.a. after = 12,000 km², which is what **Italy** did from 2001-2021 already (11,848 km²).

(6) Benefits and costs of reform

- **£12.5 billion saved for billpayers in 5 year Parliament if water public**, based on £85.2bn returns to shareholders 1989 → 2024 = £2.5bn pa x 5 years = £12.5bn
- **No extra debt on public accounts if special admin process used** to make failing co's lose licences, rather than nationalising water companies:
 - Minister puts failed company into special admin, transfer to a new debt-free entity. **Banks not bailed out.**
 - Stripping worst companies of licence (e.g. Thames Water) **sets an example to raise others' standards.**
- **Infrastructure investment up 40% if shareholders not paid** (based on returns £77.6bn v. cap-ex £191b 1989-2023)

Discussion questions

- (1) What are the best ways to ensure an end to pollution, and to restore clean water?
- (2) Should English water companies be placed in public ownership, and if so how?
- (3) What reforms – if any – should be made to Scottish, Welsh and English water governance?
- (4) What reforms are desirable for agricultural policy, especially relating to water and the environment?