

EU Policy Review

Analysis of recent EU legislation and policy for local and regional government

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LEGISLATION

New Directive on Reducing Energy Use on its way to Local Authorities

In December 2003, the European Commission proposed a new Directive aimed at improving energy efficiency across the EU. The proposal is geared towards ensuring that both public sector bodies and private companies reduce their energy output, with a view to contributing to the EU's commitment to reducing greenhouse gases under the Kyoto protocol on climate change, signed by all national governments in the EU. The proposal is likely to have significant implications for local authorities, as the government could under the proposals have to set targets for reductions in energy consumption within the public sector across a range of service areas. The Department of Communications, Marine and Natural Resources (DCMNR) has been sounding out a number of parties on the proposed Directive.

The proposal sets a target to reduce energy consumption by 1% per year over a six year period from 2006 (i.e. a total reduction of 6% over the 2006-2012 period). The original proposal had referred to this as a *mandatory* target – however, more recent versions of the text drafted by national governments refer to it as an *indicative* target. The proposal stated that this 1% reduction target would be based on the average amount of energy distributed and sold in the five years before the implementation of the Directive. MEPs are continuing however to push for more ambitious and binding targets.

Energy savings have to be registered in a number of sectors, including domestic households, agriculture, the commercial and public sector, transport, and industry – this would cover savings in the use of electricity, natural gas, transport fuels, and other energy sources. It will be up to national governments to determine how much of a contribution each sector should make in terms of reaching the national target – extensive lobbying of national government from various sectors can presumably be expected on this point.

In its original proposal, the Commission had proposed that the public sector should lead by example, and that a separate target of a 1½% reduction per year over six years (i.e. a cumulative total of 9%) be set for the public sector. However, this provision was removed last year by national governments in their discussions on the proposal. More recent drafts of the Directive state that “Member States shall ensure that the public sector fulfils an exemplary role in the context of this Directive” – i.e. that they would place a voluntary target to ensure that the public sector either meets or surpasses the indicative national targets (i.e. 1%). With that in mind, national governments may decide to impose mandatory requirements on public bodies regarding the procurement of energy services and energy efficiency improvements.

National governments will be required to set out national energy efficiency programmes, as well as appoint a new or existing body to oversee, monitor and verify progress being made. Ultimately, it will be up to national governments to decide how best to meet the relevant targets for the public sector, and which public sector bodies will be involved. The Commission states that “which industrial sectors, as well as which public sector bodies that will be chosen will, of course, be a matter for Member States to decide”. Local authorities may well be one of the public sector bodies that national government envisages playing a role in this respect.

The Commission states that national governments may reach their targets by taking into account the impact of energy efficiency measures (such as energy taxes, building regulations, and energy saving information campaigns) introduced after 1995, or by introducing new energy efficiency measures. Other measures envisaged by the legislation include energy audits, and the adoption of new technologies such as efficient lighting sources. As well as the adoption of energy efficiency measures within the public sector, the Commission suggests that improvements of total energy efficiency in the public sector can also result from the public procurement of energy services.

Clearly, the proposal is likely to place an onus on national governments to set clear targets for a reduction in energy end-use in the public sector in their countries, as well as energy efficiency programmes for the public sector. The Commission argues that additional annual investments in energy efficiency of €80 million in the public sector in the EU could yield annual energy savings of €9 to €13 billion by 2020. The public sector at national, regional and local level in most EU countries accounts for about 10% of total national energy use.

It should be emphasised that the current text is still a *draft* Directive, and the final text is not yet available – a number of issues are still considered controversial and may be subject to further changes. Nevertheless, as far as local authorities are concerned, it is possible to speculate about some of the implications for a number of local government activities. Some potential examples might include:

- Requirements for energy savings in local authority facilities (local authority offices and buildings, libraries, fire stations, leisure centres, etc.);
- Requirements for energy savings in local authority housing stock, possibly involving further retrofitting of buildings and premises;
- Possible national regulations to ensure energy efficiency specifically in public buildings – these already exist in some EU countries, such as Austria, Finland, France, Germany and Italy;
- Adaptation of public procurement practices to include energy efficiency criteria, such as the purchasing of construction works, maintenance, services, or supplies such as local authority equipment and vehicles – energy performance contracting could stipulate the delivery of measurable and pre-determined energy savings (including where activities are outsourced);
- Requirements to replace or retrofit existing equipment and vehicles with more energy efficient products where necessary;
- Requirements to undertake energy audits of local authority activities;
- An increased emphasis on the building control function within local government – energy audits on buildings are already required by existing EU legislation, and the Technical Guidance documents issued to local authorities under the Building Control Regulations, 1997, that came into effect in July 1998, cover conservation of fuel and energy;
- An increase in the activities of local energy agencies around the country, particularly in the field of energy saving awareness programmes targeting various sectors.

The Directive is expected to be formally approved soon. A copy of the original proposal can be accessed at:

http://www.europa.eu.int/comm/energy/demand/legislation/end_use_en.htm

As part of its efforts to reduce energy consumption, the Commission also published a Green Paper on Energy Efficiency in June (see *EU News Bulletin* no. 19, September 2005). The Commission has also recently launched a campaign to target energy users and promote sustainable energy. Part of the campaign involves disseminating best practice, and addresses areas such as local activities contributing towards energy efficiency, and

energy efficiency in transport and buildings. A special website for the campaign has also been launched, known as:

<http://www.sustenergy.org>

EU proposes reforms to Motor and Vehicle Taxes

The European Commission has proposed re-structuring the way national governments apply registration taxes and annual taxes on passenger cars. The proposal will be of interest to local authorities, given their involvement in collecting motor taxation and given that this is a dedicated source of financing for the Local Government Fund.

The draft proposes abolishing car registration taxes paid upon purchase by January 2016 at the latest. The Commission argues that national governments could ensure that the legislation would be revenue neutral by gradually reducing registration taxes in advance of this date, while at the same time instituting a parallel increase of what the proposal terms ‘annual circulation taxes’ (as well as increases in other taxes if this is necessary). The transitional period would allow countries with high rates of registration tax sufficient time to make the necessary changes in advance of abolition, and it would be up to national governments to decide the rate of reduction in the run-up to 2016. VAT and fuel taxes are not covered by the proposal.

A further important change would be to restructure the calculation of both registration tax (before its abolition) and the annual circulation tax, to take greater account of the type of vehicle and the greenhouse gases emitted – this would be done on the basis of the number of grams of carbon dioxide emitted per kilometre by each particular car. The proposal, if adopted, would require that by the end of 2008, at least 25% of the total tax revenue from registration tax and annual circulation tax should derive from this CO₂ based element of the taxes. By the end of 2010, at least 50% of the total tax revenue should be based on the CO₂ element. The effect of this provision would be to encourage car drivers to replace their cars with less polluting ones. The proposal does not set out to establish an EU-wide annual tax on cars. It would still be up to each national government to fix the level of tax in terms of euros per gram of CO₂ per kilometre.

The Commission believes there is strong support for phasing out registration taxes, which are applied in 16 of the 25 EU countries, including of course Vehicle Registration Tax (VRT) in Ireland. From a revenue point of view, the Commission argues that registration taxes are can fluctuate significantly depending on yearly car sales. Annual taxes on the other hand tend to be more stable over time, and have more coherence as they relate to the use and permanence of the vehicle.

The draft also proposes establishing a refund system in advance of the abolition of registration tax, whereby a portion of registration tax would be refunded where a passenger car registered in one EU country is exported or permanently transferred to another EU country. A similar refund system would be introduced for annual circulation taxes.

The proposal now passes to national governments for examination. It will however have to secure the unanimous agreement of all 25 Finance Ministers before it becomes law. The text of the proposal can be accessed at:

http://www.europa.eu.int/comm/taxation_customs/taxation/other_taxes/passenger_car/index_en.htm

New Proposals to Enhance the Effective Response of Civil Protection Agencies

A number of EU proposals are currently being considered by Ministers designed to enhance the capacity of EU countries to share resources in emergency situations. There are already arrangements in place to coordinate responses to major disasters between European countries – known as the EU's 'Civil Protection Mechanism'. Recent events such as major flooding in central Europe, as well as emergency situations caused by forest fires, terrorist attacks or oil spills and environmental accidents have heightened awareness of the need for effective coordination in order to be able to respond to both natural and manmade disasters. The current proposals are designed to amend existing systems to respond to disasters within the EU, but are also intended to allow EU countries provide assistance when it is requested elsewhere in the world, such as following the tsunami in the Indian Ocean or dealing with the effects of the hurricanes in the US.

The proposals cover civil protection, defined as the immediate relief in the first hours and days of a disaster, including search and rescue, emergency medical assistance, fire fighting, civil defence, shelter, and provision of food and water. It may also involve, depending on the type of disaster, specialist fire fighting equipment, pumping capacity in the case of floods, ships to combat oil spills, and detection and decontamination facilities in the case of chemical, biological or nuclear incidents. The immediate purpose is to save lives and alleviate the effects of the disaster in the first few days.

The new proposals are designed to allow countries respond to major emergencies and crisis situations where their own means are inadequate. As one of the proposals from the Commission argues, while many types of major emergencies occur infrequently, they often have severe consequences – however states do not generally scale their rapid response means and equipment on the basis of the worst possible scenario, as this would impose heavy financial burdens and it is difficult to maintain all-year long large teams and all the necessary equipment. There is therefore a clear benefit in putting in place arrangements for the pooling of resources and mutual assistance between EU countries.

The proposals, if agreed, would result in the establishment of specialist planning teams of civil protection experts ready for deployment at short notice for assessment missions in the event of disasters. This should speed up the delivery of long term aid. Greater use is to be made of simulation exercises and scenarios which help identify the resources that can be mobilised in the event of a major incident. The proposals also aim to reinforce existing capacity to provide specialised civil protection equipment.

National governments would be asked to place a small number of key personnel and equipment on permanent standby for European civil protection interventions. Individual countries could specialise in providing a permanent standby support in certain areas, such as water purification, telecommunications or search and rescue, or groups of countries could share the burden of keeping such resources on standby, ensuring their permanent availability in the event of disasters.

Further details on the proposals are available at:

http://www.europa.eu.int/comm/environment/civil/whatsnew_archive.htm

EU Scraps some Proposals, and Plans to Simplify Existing EU Legislation

Following recent undertakings to cut down on the volume of EU legislation, and in particular tackle the perception of 'interfering Brussels bureaucrats' and over-regulation, the Commission has undertaken a screening process of all 183 existing proposals for new legislation. The screening was part of the Commission's 'Better Regulation' initiative, and involved checking various aspects of each proposal, including:

- Whether the proposal would contribute to or harm competitiveness;
- Whether or not an impact assessment had been carried out, or whether a more thorough impact assessment is necessary;
- Whether the proposal would improve regulation;
- Whether the proposal had become obsolete or outdated due to recent developments, or had little chance of being approved into law.

On the basis of these issues, the screening process resulted in the withdrawal of 68 different proposals. These included a proposal to ban heavy goods vehicles from the roads at weekends (such a ban is in place in several EU countries). The proposal did not contain an impact assessment and is opposed by several EU countries. The Commission has withdrawn this proposal, although it may present a revised version at a future stage following a full re-assessment. The Commission also withdrew proposed employment legislation that would have placed restrictions on outdoor workers exposed to sunshine.

As a result of the screening process, the Commission decided to maintain its proposal to change the Waste Shipment Regulation governing the movement of waste – however it has committed itself to prepare a more detailed economic impact analysis of the proposal.

The next step in the 'Better Regulation' initiative is to simplify and update some 80,000 pages of existing EU Directives, Regulations and Decisions. The focus of this work will initially be on three policy areas, namely the waste, construction and automobile sectors. These have been earmarked on the basis of their importance to competitiveness, the large accumulation of legislation in the areas, and the number of complaints about the complexity of legislation in these fields by businesses. A work programme in these three sectors will be launched in the coming months. Other policy sectors will also be examined in the future. New proposals are to be

increasingly vetted to assess administrative costs for both small firms and public administrations.

Further information is available at:

http://www.europa.eu.int/comm/enterprise/regulation/better_regulation/index_en.htm

POLICY INITIATIVES AND ANNOUNCEMENTS

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New Review of Implementation of EU Environmental Legislation

The Commission's latest review of the implementation of EU Environmental Directives was published in August.

The document outlines a number of cases where proceedings have been brought against national governments, either for not introducing proper national legislation on time or for not properly implementing the legislation, under different headings including:

- Waste management;
- Water quality;
- Air pollution;
- Nature and habitats;
- Chemicals;
- Environmental impact assessment; and
- Access to information on the environment.

A number of cases are highlighted regarding Ireland, which have already been covered in previous editions of this publication. As always however, it is important to note that there are no unblemished records in any EU country. In many cases that concerned Ireland, proceedings were also taken against numerous other countries.

However, the Commission also notes an overall trend towards improvement in the implementation of EU environmental law, reflected in a much lower number of complaints made to the Commission on environmental issues in 2004 – 336 complaints were made from across the EU in 2004, compared to 505 in 2003.

This is the first report to include the 10 new member states that joined in May 2004, although it notes a paucity of complaints from these countries, with a complete absence of complaints in some countries, 'pointing to deficiencies'.

A copy of the report is available at:

<http://www.europa.eu.int/comm/environment/law/as04.htm>