

# EU Policy Review

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

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## LEGISLATION

### Groundwater Directive Imposes Strict Quality Standards

Ireland will be obliged to ensure that the quality of groundwater meets the standards required of drinking water, under the terms of a new EU Directive agreed this month. The Directive on Groundwater Quality, which puts into the practice the requirements of the Water Framework Directive, introduces common quality standards, monitoring and assessment procedures for all EU countries. Member States will be obliged to gather data on standards of groundwater and eliminate any pollutants identified. Any direct discharges to groundwater will be prohibited and the ongoing assessment of chemical composition of the water should also enable indirect sources of pollution to be tackled.

The principle underlying the Directive is that, broadly speaking, groundwater should not contain any pollutants at all. The Directive is very specific in this respect; Member States are required to protect groundwater to such a degree that additional treatment is not required where it is used as a source of drinking water. It takes as its basis the standards set by the nitrates directive and the directive on the pollution of the aquatic environment by dangerous substances, including pesticides. Meeting these requirements will require concerted action in Ireland, where approximately 23% of groundwater locations exceed the national guideline values for nitrates, according to figures

published by the Environmental Protection Agency last year.

While the Groundwater Directive sets very strict environmental objectives, it does leave national governments flexibility to decide how they are to be achieved. In practice, this means that the government will have to assess where groundwater is used as drinking water and will then be able to grant derogations in areas which are subject to particular geographical and climatic conditions. These indications will be included within 'catchment area management plans', to be drawn up under the Water Framework Directive.

The emphasis on adapting the rules to local conditions enabled Ireland to apply for a derogation to the groundwater's sister Directive on Nitrates, on the grounds that it would damage the competitiveness of 10,000 dairy farmers and did not take into account the specific nature of Irish soils and farming conditions. The derogation, which was approved this month, will allow farmers to spread up to 250kg/ha of animal manure on grassland farms- exceeding the limit set by the directive of 170kg/ha. This is particularly significant because the limit values set under the Nitrates Directive will also serve as the maximum values allowable for groundwater.

The quality standards for groundwater must be met by 2015, which is the deadline set by the water framework directive.

The Groundwater Directive is available at: <http://ec.europa.eu/environment/water/water-framework/groundwater.html>

### Ireland Could Face Legal Action Over Working Time

Ireland, along with 22 other EU countries, could face legal action from the European Commission for breaches of the EU's Working Time Directive, following the breakdown this month of talks aimed at reaching consensus on a revision of the rules. The Working Time Directive sets in place a maximum working week of 48 hours, and a minimum rest period of 11 consecutive hours each day. It also provides employees with the right to:

- A minimum weekly rest period of 24 hours plus the 11 hours daily rest period in every seven-day period;
- A minimum of four weeks paid annual leave;
- A restriction on night work to an average of eight hours in any 24-hour period.

However, the current directive only defines 'working time' and 'rest time'. Different countries dealt differently with the question of time spent on call, which is not defined in the current directive. This led to two Court of Justice rulings, which declared that time spent on call by employees at their place of work has to be regarded as working time. These rulings clashed with the existing legal provisions in the majority of EU countries, causing difficulties for those employing 'on call' workers, such as doctors or firefighters.

The current revision centres on the reference periods used to calculate the maximum working week and the opt-out secured by certain countries to this weekly limit. In addition, it provides member states with a good opportunity to clarify the definition of 'on call' time. However, the review has been blocked by the conflict between two groups of countries at loggerheads over the issues of the opt out and reference periods. This leaves Ireland in breach of the Directive on two provisions: time spent on call and mandatory rest periods.

Following the breakdown of compromise talks aimed at ending the deadlock, European Employment Commissioner Vladimir Spidla said that he had no option but to pursue legal action against the 23 countries in breach of the regulations as they stand, and confirmed that proceedings would be launched without delay. However, it is likely that Commission action will proceed in several waves, starting with countries charged with more serious infringements of the Directive, which would not include Ireland.

## New EU Measures on Road Safety

As mentioned in *EU News Bulletin* No 31, the European Commission has recently published proposals for two new directives within the framework of its action programme to halve the fatalities on the EU's roads by 2010. The first introduces more systematic safety audits in the planning and construction of new roads, while the second requires the fitting of special anti-blind spot mirrors in lorries.

Road infrastructure and design are a contributing factor in one out of three fatal accidents. The draft directive on road infrastructure safety management aims to reduce these preventable fatalities through the introduction of more systematic checks and audits throughout the design, construction and maintenance of all roads that are part of the EU's Trans-European Transport Network (TENs- see [http://ec.europa.eu/ten/transport/guidelines/index\\_en.htm](http://ec.europa.eu/ten/transport/guidelines/index_en.htm) for further details). It proposes a comprehensive system which requires EU countries to take action in several stages:

- Before a construction or renovation project is approved, a safety impact study must be compiled
- At several points during the design and construction process, security audits should be carried out
- Once the roads are operational, safety inspections should be carried out regularly

The directive does not impose harmonised standards but aims to ensure that Member States make the best use of existing procedures and practices.

In a separate bid to reduce the number of vulnerable users, such as motorcyclists and cyclists, who are killed on the roads each year, the second draft Directive would oblige all

trucks over 3.5 tonnes in weight and registered in the past ten years to fit anti-blind spot mirrors. The Commission believes that this simple measure could save up to 1200 lives per year, while a further 600 mortal accidents could be prevented through the measures to improve infrastructure.

Further proposals on road safety are set to be published in the coming year. In particular, the Commission is currently considering EU legislation on the compulsory use of headlights in the daytime and on the cross border application of driving penalties. The Commission wants all EU states to set a common date for making daytime running lights mandatory. It is also proposing that all new cars be fitted with lights that turn on automatically whenever the engine is started.

Meanwhile in a report recently adopted by the European Parliament's transport committee, MEPs have called for an EU-wide zero alcohol limit for new, commercial and bus drivers. The report urges the EU to take a wide range of additional measures to improve road safety, including:

- The creation of a dedicated EU-wide road safety agency;
- More use of rear-facing childrens' seats for children up to 4 years;
- A ban on the use of mobile phones without hands-free systems;
- Better use of new technology such as seatbelt warning systems, electronic stability control; automatic speed restrictions on vehicles, anti-alcohol locks and assisted braking systems.

Further information on EU action to tackle road safety, as well as the two legislative proposals can be found at: [http://ec.europa.eu/transport/roadsafety/index\\_en.htm](http://ec.europa.eu/transport/roadsafety/index_en.htm)

## INSPIRE Initiative Sets New Rules on Access to Spatial Data Across Europe

Agreement has been reached on a major initiative to share information on spatial planning across EU countries. The INSPIRE initiative (Infrastructure for SPatial InfoRmation in Europe) will require public authorities to ensure that data on geo-spatial information about weather, land and water use is collected to the same standards across Europe and is freely available to all.

INSPIRE will include data sets on areas such as properties, buildings and addresses, elevation, geo-physical environment, land surface/land cover, transport, utilities and facilities, society and population, spatial planning/area regulation, air and climate, waterways, ocean and seas, biodiversity, natural resources, natural and technological risks. Of course, much of this information is held by planning sections and other sections within local authorities. This information will inform EU decision-making around the sustainable use of natural resources, pollution, agriculture, tourism, transport and regional policy. See Local Authority Bulletin on Europe for October-November 2004 for details of the original proposal.

The draft initiative was underpinned by five principles:

- Spatial data should be collected once, at the level best suited to the task;
- Data from different sources should be capable of being shared among many users and applications;
- All levels of government should have access;

- Data needed for good governance should be available on conditions that do not restrict its extensive use;
- It should be easy to discover which spatial data is available and under what conditions.

However, the principle of access to data proved controversial and held up negotiations on the Directive. The European Parliament insisted that data be made available free of charge, while national governments objected that this could have a negative impact on public services. In particular, there was concern that if public authorities were unable to charge for the data that they collect, such services would no longer be financially viable. There were also fears that completely open access to certain sensitive information could jeopardize security and defence.

Agreement was reached after national governments obtained several derogations to the principle of free access to data. The first will allow public authorities to charge for data 'where such charges are securing the maintenance of spatial data sets and corresponding data services, especially in cases involving large volumes of frequently updated data.' The second allows public authorities to license their data sets and to charge other bodies that want to use their data, as long as these charges are kept to 'the minimum required to ensure the necessary quality and supply of spatial data sets and services together with a reasonable return on investment.' Public authorities may not, however, charge for data required under EU environment legislation. The final derogation enables national governments to restrict access to e-commerce services on a range of grounds (eg confidentiality of proceedings of public authorities; public security or national defence; intellectual property rights; confidentiality of personal data).

The INSPIRE provisions will come into force two years after it is formally approved early next year.

More information is available on the INSPIRE website:

<http://inspire.jrc.it/home.html>

## POLICY INITIATIVES AND ANNOUNCEMENTS

### EU Action Plan on Energy Efficiency

The European Commission has proposed an EU-wide action plan on energy efficiency, which aims to address the unprecedented energy challenges facing Europe (see also *EU News Bulletin*, No 31). In the context of increasing dependence on fuel imports from unreliable markets, diminishing stocks of fossil fuels and heightened concerns over climate change, the action plan presents a range of measures that seek to reduce demand for energy by 20% by 2020. The Commission stresses that this can be achieved in a cost-effective manner and without any impact on quality of life, simply by addressing the areas where energy is wasted.

The strategy is targeted at policy makers, companies and individuals. Although some new and updated legislation is proposed, the plan largely eschews binding rules in favour of informed consumer choice. The basic principle is that

producers will be encouraged to develop more energy-efficient technologies and products, and consumers will receive stronger incentives to buy such products and use them rationally. To this end, action is proposed on three fronts:

- Targeted sectoral and horizontal measures aiming at energy performance requirements
- Promoting a change in individual behaviour through financial incentives, raising awareness and international partnerships
- Promoting new technologies through research and development

The main areas of focus are infrastructure, buildings, appliances and transport and energy systems. The Commission believes potential savings are possible of around 27-30% in the commercial and residential buildings sector, of 25% in manufacturing and of 26% within the transport sector.

The first priority of the action plan is to ensure that existing EU rules on energy efficiency are effectively implemented. This raft of legislation includes provisions on eco-design, energy services, labelling and buildings. In addition to implementation, new and updated legislation will be brought forward in several areas, including:

- A 'substantial expansion' of the buildings directive once existing provisions are implemented;
- Binding minimum energy performance standards for a range of appliances, including boilers, water heaters, computers, televisions, office lightning and street lighting. There will be a particular emphasis on energy wasted by appliances left on standby, office and street lighting;
- Guidelines for national energy regulators;
- An EU-wide certification scheme for white goods;
- Stricter efficiency requirements for new electrical generation, heating and cooling plants;
- A strategy to encourage the construction of very low energy or 'passive' houses;

The action plan places significant emphasis on transport, as a sector that accounts for almost 20% of energy consumption, but is 98% reliant on fossil fuels. The action plan stops short of introducing legislation on fuel efficiency in cars, relying on the use of voluntary commitments by manufacturers to develop vehicles using cleaner fuels and to improve technical specifications. However, the Commission has stressed that if industry fails to meet emission reduction targets, it will not hesitate to bring forward regulations. Local authorities can also make an important contribution to meeting these targets by opting for cleaner fuel and more efficient fuel options in their procurement choices.

Measures are also proposed to reduce car use, especially in cities. The Commission will shortly publish a green paper on urban transport, which will include new approaches to encourage the use of public transport, car sharing, non-motorised transport modes and working from home. The inclusion of guidelines on infrastructure use and road and congestion charges will also be considered.

Although there are potential financial savings to be made through energy efficiency, the Commission notes that the high costs of initial investment often acts as a barrier to the installation of energy saving devices. A range of ideas are

proposed to help overcome these obstacles, such as the use of tax credits as incentives for manufacturers and consumers and a review of the Energy Tax Directive.

A stated goal of the plan is to ensure that consumers take energy efficiency into account automatically when buying new products. To this end, the Commission pledges to make EU funds available for public awareness-raising and training plans, to establish programmes to train energy managers in utilities and to promote coherent public procurement strategies with regard to energy efficiency.

Local authorities will have an important role to play in implementing the action plan, as part of their responsibilities as housing providers, as users of energy and as opinion leaders in their communities. Councils will also have an interest in the 'Convention of Mayors' project announced by the action plan. The Convention will be launched in 2007 and will bring together the Mayors of 20-30 pioneering European cities to exchange best practice. On a national level, the recent green paper on energy 'towards a sustainable energy future for Ireland' puts forward a number of proposals that will contribute towards the goals of the EU action plan (see *Local Authority Times* Vol. 10, No 4, forthcoming, for further details).

The Action Plan must now be approved by the MEPs and European Energy Ministers. So far, national governments have agreed on the need to apply existing legislation, especially the Buildings Directive, and to review legislation on product performance and labelling schemes. There was a mixed reaction to the plans from other stakeholders. Employers organisations welcomed the focus on voluntary measures, while Environmental NGOs, on the contrary, lamented the lack of legislation. The Council of European Municipalities and Regions (CEMR) regards the plan as 'a step in the right direction'. However, it criticized that lack of an explicit mention of the important role played by local and regional authorities and feels that is 'sometimes a little too optimistic'.

A more extensive EU package of energy policy measures focusing on greater use of renewables and the creation of a "true single market" in energy will be proposed in January.

The action plan can be found at the following address:  
[http://ec.europa.eu/energy/action\\_plan\\_energy\\_efficiency/index\\_en.htm](http://ec.europa.eu/energy/action_plan_energy_efficiency/index_en.htm)

## Council of Europe Report on Minorities in Ireland

Irish local authorities must step up the delivery of appropriate accommodation options to Travellers, and legislation on trespassing should urgently be reviewed, the Council of Europe has said. In a recent report on Ireland, the Council's advisory committee on the protection of national minorities pays particular attention to situation of the Travellers and the role of local authorities in addressing the ongoing problems they face.

The committee's report recognises that local authorities have made serious efforts to address the issue, and welcomes the adoption by all local authorities of Traveller accommodation plans for 2005-2008 with key targets. However, despite improvements in certain areas, the committee finds that implementation of the accommodation programmes continues to be hampered by various factors

and notes that many local authorities have failed to meet their own targets in this area.

The committee cites the lack of halting sites as a key issue of concern and stresses that local authorities have a statutory obligation to provide appropriate accommodation for Travellers. It is particularly concerned that under new anti-trespass legislation, Traveller families have been evicted from sites while awaiting the provision of appropriate accommodation from local authorities. The report calls on the authorities to pay particular attention to the effect of such removals on Traveller women.

While applauding the new anti-discrimination structures that have been put in place, such as the High Level Group on Travellers, the committee stresses that more must be done at all levels to ensure that Travellers and their representatives participate in decision-making. Travellers' representatives should be more closely involved in the implementation and evaluation of policy, and obstacles that may hamper Travellers' participation in electoral processes must be addressed. In this respect, the report welcomes the positive examples of Travellers that have been elected to local councils.

The full report can be found at the following website:  
[http://www.coe.int/T/E/Human\\_Rights/Minorities/](http://www.coe.int/T/E/Human_Rights/Minorities/)

## EU Database Highlights Progress on Pollution in Ireland- but CO<sub>2</sub> Problems Remain

Figures released in a new EU-wide database of air pollutants have demonstrated significant decreases in emissions from industrial and waste sources in Ireland. They reveal although landfill sites are still among the most heavy polluters, the efforts made by these facilities to intercept and recover gas has resulted in 30% fall in methane levels.

The figures were compiled by the Environmental Protection Agency and published under the European Pollutant Emission Register (EPER) for 2004. A requirement of the integrated pollution prevention and control directive, the EPER is a publicly accessible database that facilitates comparison with towns and companies in other EU countries. National governments provide information every three years on the levels of 50 different substances where they exceed reporting levels.

Air quality is not a serious problem in Ireland, mainly due to the eradication of the burning of coal in many urban areas during the 1980s and early 1990s. The Irish report shows that since 2001 there have been significant falls in the number of pollutant chemical emissions, including sulphur dioxide (down 43%) and methane (down 30%). These reductions can mainly be traced to the closure of the IFI fertiliser plants in County Wicklow and Cork.

Carbon dioxide emissions, however, were only down by 3% on 2001 levels. Ireland has recently been criticised by the European Commission for not doing enough to meet its obligations under the Kyoto protocol on climate change. Demanding changes to the Irish National Allocation Plan on greenhouse gas emissions, the Commission highlighted the government's failure to redress the significant increase

CO<sub>2</sub> emissions from transport, and in particular its U-turn on plans for a carbon tax. It sought a 6.4 per cent decrease in Ireland's proposed allocations, as it expects transport emissions to increase more than projected.

The EPA has noted in this respect that road traffic now poses the biggest threat to Irish air quality. It pointed out that one way of dealing with the problem would be to impose short term traffic restrictions, but recognised that this would be a major challenge for local authorities. The Agency also drew attention to the fact that Irish consumers are tending to buy SUVs and cars with larger engines, which cause greater damage to the environment.

The European Pollutant Emission Register can be found at:  
<http://www.eper.cec.eu.int/eper/>

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## **EU-Wide Petition to Protect Public Services**

An EU-wide petition has been launched demanding that the European Commission bring forward a framework directive to define and safeguard public services. Organised by the European Trade Union Confederation, the aim of the petition is to ensure that certain core public services are protected from the rigours of market competition. It comes in the context of recent debates about the potential implications of EU legislation in areas such as public procurement and removing the barriers to EU-wide competition in services. Local authority organisations across Europe have been campaigning to ensure that rules are established in the framework of internal market legislation acknowledging the special nature of public services, or 'services of general interest'.

The petition can be found at:  
<http://www.petitionpublicservice.eu/>