



Houses of the
Oireachtas
Tithe an Oireachtais

**An Comhchoiste um Thithíocht, Pleanáil agus Rialtas
Áitiúil**

COM (2017) 753

**Togra le haghaidh Treoir ó Pharlaimint na hEorpa agus ón gComhairle
maidir le cáilíocht an uisce a bheartaítear lena ól ag an duine
(athmhúnlú)**

Márta 2018

**Joint Committee on Housing, Planning and Local
Government**

COM (2017) 753

**Proposal for a Directive of the European Parliament and of the Council
on the quality of water intended for human consumption (recast)**

March 2018

32/HPLG/09

JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

Report under Dáil Standing Order 114 and Seanad Standing Order 116 on Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast)

1. Introduction

1.1 The principle of subsidiarity is defined in Article 5(3) of the Treaty on European Union (TEU) as follows:

Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

Article 5(3) also gives specific responsibility to national Parliaments to ensure that EU institutions apply the principle in accordance with Protocol 2 on the application of the principles of subsidiarity and proportionality.

1.2 The test established by Article 5(3) TEU is, in effect, a “comparative efficiency” exercise, involving a *necessity* test and a *greater benefits* test:

- (i) **Necessity** - Is action by the European Union necessary to achieve the objective of the proposal? Can the objective of the proposal only be achieved, or achieved to a sufficient extent, by EU action?
- (ii) **Greater Benefits** - Would the objective be better achieved at EU level – i.e. would EU action provide greater benefits than action at Member States level?

1.3 To assist national Parliaments in their evaluation of subsidiarity compliance, Article 5 of Protocol 2 provides explicitly that

Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States...

1.4 Therefore, any new draft legislative act

- must be supported by a sufficiently ‘detailed statement’ to allow a judgment to be made by national Parliaments on its compliance with the principle of subsidiarity

- must clearly satisfy both the *necessity* and *greater benefit* tests
- must, under the principle of conferral set down in Article 5(2) of the TEU, show that the Union is acting '*only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein*'.

2. Scrutiny by the Committee

The Joint Committee on Housing, Planning and Local Government ("the Committee") scrutinised this proposal at its meetings of 8 March 2018 and 21 March 2018, concluding with a decision to issue a Reasoned Opinion.

3. Background to the Proposal

On 1 February 2018, the European Commission published a proposal for a recast of a current Directive, the ultimate purpose of which is to ensure the provision of high-quality drinking water in light of the latest scientific advice, and to help customers access this water and to find reliable information about its supply.

The proposal is a response to the successful European Citizens' Initiative, Right2Water, which received the support of 1.6 million Europeans. The initiative was submitted to the Commission in December 2013, and urged in particular that '*EU institutions and Member States be obliged to ensure that all inhabitants enjoy the right to water and sanitation*' and that '*the EU increase its efforts to achieve universal access to water and sanitation*'.

The revision is also part of the plan to transition to a circular economy and to help reduce bottled water consumption.

4. Opinion of the Committee

The Committee supports for the overarching goal of the proposal, in particular the aim of improving standards of drinking water and improving the monitoring systems for the quality of drinking water. However, the Committee has had specific regard to the Treaty provisions and is of the opinion that the proposal does not comply with the principle of subsidiarity. The reasons are set out in the following paragraphs.

- The Committee believes that the proposal unnecessarily limits the provision for national decision-making. Consequently, the scope for Member States to choose how to implement the proposal's objectives at national level, and in accordance with established national systems, is constrained.
- The Committee believes that the actions in this proposal do not sufficiently restrict themselves to those necessary to fulfil its stated objectives and, therefore, are not proportionate to the objectives of this proposal.

- The Committee does not see the necessity for diverging from the recommendations of the World Health Organization in relation to the parameters for monitoring the quality of water for human consumption.
- The Committee is further of the opinion that this proposal does not adequately take into account local and regional considerations and has the potential to have far reaching implications on well-established national arrangements in place in Ireland.

The Committee is satisfied that the above points, taken together, clearly demonstrate that the proposal does not comply with the principle of subsidiarity.

5. Recommendation of the Committee

The Committee agreed this Report under Dáil Standing Order 114 and Seanad Standing Order 116 on 27 March 2018.

The Committee, pursuant to Standing Orders recommends the Reasoned Opinion contained in section 4 above, for agreement by Dáil Éireann and Seanad Éireann.

Maria Bailey, T.D.

Chair of the Joint Committee

27 March 2018