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From: Irish Parliament
date of receipt: 6 April 2018
To: General Secretariat of the Council

Subject: Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast)
[5846/18 ENV 59 SAN 50 CONSOM 24 CODEC 134 - COM(2017) 753 final]
- Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality

Delegations will find in Annex a copy of the above opinion.

IM 03503-2018
06.04.2018

Ceann Comhairle



Speaker of Dáil Éireann

Mr. Donald Tusk
 President of the Council of the European Union
 Council of the European Union
 Rue de la Loi 175
 1048 Brussels, Belgium

28 March 2018

Re: Reasoned Opinion of Dáil Éireann on Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) – COM (2017) 753

Dear President Tusk,

I am writing to inform you that Dáil Éireann, at its meeting today, considered the *Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) – COM (2017) 753*, and is of the opinion that the proposal does not comply with the principle of subsidiarity.

Under Standing Orders of Dáil Éireann, a Joint Committee was conferred with the power to consider the above Proposal for compliance with subsidiarity. The Committee was obliged under Standing Orders to report back to Dáil Éireann if it was of the opinion that the proposal did not comply with the principle of subsidiarity. The Committee duly reported to the Dáil and a motion on the Report of the Committee was considered and adopted by the Dáil at its meeting today.

In accordance with Standing Orders, I have enclosed a copy of the Resolution of Dáil Éireann and a copy of the Report of the Committee with the Reasoned Opinion. I have also sent this letter to the Presidents of the European Commission, the Parliament and the Irish Minister for Housing, Planning and Local Government.

Yours sincerely,


 Seán Ó Feighail, TD
 Ceann Comhairle

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DÁIL ÉIREANN

AN TUARASCÁIL ÓN gCOMHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL FAOI BHUAN-ORDÚ 114 AR AN TOGRA LE HAGHAIDH TREOIR Ó PHARLAIMINT NA hEORPA AGUS ÓN gCOMHAIRLE MAIDIR LE CÁILÍOCHT AN UISCE A BHEARTAÍTEAR LENA ÓL AG AN DUINE - COM (2017) 753.

Rith Dáil Éireann an Rún seo istigh ag an gCruinniú de Dháil Éireann a bhí ann an 28ú lá seo de Mhárta, 2018.

REPORT OF THE JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT UNDER STANDING ORDER 114 ON THE PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE QUALITY OF WATER INTENDED FOR HUMAN CONSUMPTION - COM (2017) 753.

The within Resolution was passed by Dáil Éireann at its Meeting on this 28th day of March, 2018.

Cathaoirleach Dháil Éireann

Le cur go dtí:
For transmission to:

President of the Council of the European Union

Go ndéanann Dáil Éireann:

- (1) an Tuarascáil chomhaontaithe a thabhairt dá haire ón gComhchoiste um Thithíocht, Pleanáil agus Rialtas Áitiúil faoi Bhuan-Ordú 114 ar an Togra le haghaidh Treoir ó Pharlaimint na hEorpa agus ón gComhairle maidir le cáilíocht an uisce a bheartaítear lena ól ag an duine - COM (2017) 753, a leagadh faoi bhráid Dháil Éireann an 27 Márta 2018, de réir Bhuan-Ordú 114(3)(b);
- (2) ag féachaint don Tuarascáil réamhráite, agus le linn a feidhmeanna faoi alt 7(3) d'Acht an Aontais Eorpaigh, 2009 a fheidhmiú, an tuairim a shealbhú nach ndéanann an Togra le haghaidh Treoir ó Pharlaimint na hEorpa agus ón gComhairle maidir le cáilíocht an uisce a bheartaítear lena ól ag an duine - COM (2017) 753 prionsabal na coimhdeachta a chomhlíonadh ar na cúiseanna atá leagtha amach i mír 4 den Tuarascáil; agus
- (3) a thabhairt dá haire, de bhun Bhuan-Ordú 114(4), go gcuirfear cóip den Rún seo mar aon leis an tuairim réasúnaithe agus an Tuarascáil réamhráite chuig Uachtarán Pharlaimint na hEorpa, Uachtarán na Comhairle agus Uachtarán an Choimisiúin.

That Dáil Éireann:

- (1) notes the agreed Report of the Joint Committee on Housing, Planning and Local Government under Standing Order 114 on the Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption - COM (2017) 753, which was laid before Dáil Éireann on 27th March, 2018, in accordance with Standing Order 114(3)(b);
- (2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that the Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption - COM (2017) 753 does not comply with the principle of subsidiarity for the reasons set out in section 4 of the Report; and
- (3) notes that, pursuant to Standing Order 114(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.

Cathaoirleach Sheanad Éireann



Chairman of Seanad Éireann

28 March 2018

Mr. Donald Tusk
President of the Council of the European Union
Council of the European Union
Rue de la Loi 175
1048 Brussels, Belgium

Re: Reasoned Opinion of Seanad Éireann on Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) – COM (2017) 753

Dear President Tusk,

I am writing to inform you that Seanad Éireann, at its meeting today, considered the *Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) – COM (2017) 753*, and is of the opinion that the proposal does not comply with the principle of subsidiarity.

Under Standing Orders of Seanad Éireann, a Joint Committee was conferred with the power to consider the above Proposal for compliance with subsidiarity. The Committee was obliged under Standing Orders to report back to Seanad Éireann if it was of the opinion that the proposal did not comply with the principle of subsidiarity. The Committee duly reported to the Seanad and a motion on the Report of the Committee was considered and adopted by the Seanad at its meeting today.

In accordance with Standing Orders, I have enclosed a copy of the Resolution of Seanad Éireann and a copy of the Report of the Committee with the Reasoned Opinion. I have also sent this letter to the Presidents of the European Commission, the Parliament and the Irish Minister for Housing, Planning and Local Government.

Yours sincerely,

Senator Denis O'Donovan
Cathaoirleach, Seanad Éireann

Seanad Éireann
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Seanad Éireann
Leinster House
Kildare Street
Dublin 2



“Go ndéanann Seanad Éireann:

- (1) an Tuarascáil chomhaontaithe a thabhairt dá aire ón gComhchoiste um Thithíocht, Pleanáil agus Rialtas Áitiúil faoi Bhuan-Ordú 116 ar an Togra le haghaidh Treoir ó Pharlaimint na hEorpa agus ón gComhairle maidir le cáilíocht an uisce a bheartaítear lena ól ag an duine - *COM(2017)753*, a leagadh faoi bhráid Sheanad Éireann an 27 Márta 2018 de réir Bhuan-Ordú 116(3)(b);
- (2) ag féachaint don Tuarascáil réamhráite, agus le linn a fheidhmeanna faoi alt 7(3) d’Acht an Aontais Eorpaigh, 2009 a fheidhmiú, an tuairim a shealbhú nach ndéanann an Togra le haghaidh Treoir ó Pharlaimint na hEorpa agus ón gComhairle maidir le cáilíocht an uisce a bheartaítear lena ól ag an duine - *COM(2017)753*, prionsabal na coimhdeachta a chomhlíonadh ar na cúiseanna atá leagtha amach i mír 4 den Tuarascáil; agus
- (3) a thabhairt dá aire, de bhun Bhuan-Ordú 116(4), go gcuirfear cóip den Rún seo mar aon leis an tuairim réasúnaithe agus an Tuarascáil réamhráite chuig Uachtarán Pharlaimint na hEorpa, Uachtarán na Comhairle agus Uachtarán an Choimisiúin.

That Seanad Éireann:

- (1) notes the agreed Report of the Joint Committee on Housing, Planning and Local Government under Standing Order 116 on the Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption - *COM(2017)753*, which was laid before Seanad Éireann on 27 March 2018 in accordance with Standing Order 116(3)(b);
- (2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that the Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption - *COM(2017)753*, does not comply with the principle of subsidiarity for the reasons set out in section 4 of the Report; and
- (3) notes that, pursuant to Standing Order 116(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.”



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
