

1 February 2013

Bundesrat Resolution

**Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:
A Blueprint to Safeguard Europe's Water Resources
COM(2012) 673 final**

At its 906th session on 1 February 2013 the Bundesrat adopted the following comments in accordance with §§ 3 and 5 of the EUZBLG (Law on cooperation between the Federal Government and the *Länder* on European Union affairs):

1. The Bundesrat welcomes in principle the Communication on a Blueprint to Safeguard Europe's Water Resources. The Bundesrat takes note of the Commission's comprehensive assessment of EU policy to date on safeguarding Europe's water resources. The Blueprint to Safeguard Europe's Water Resources aims to tackle the obstacles which hamper action to protect Europe's waters. The Bundesrat welcomes in particular the integral approach to European water management and to the protection of waters as an important component of an ambitious European environment policy. It follows that considerable efforts will still need to be made in order to preserve and/or sustainably improve Europe's water resources for future generations. The possible solutions and proposals outlined in the Blueprint can contribute to this, and in particular to achieving the objectives defined in the Water Framework Directive.
2. In addition, greater consistency must be created between directives in different legislative areas.

Particular mention must be made here of agricultural policy. Merely expanding

the areas earmarked as at risk under the nitrates Directive will not achieve progress in this regard. What is needed here is a fundamental change to reduce the input of nutrients into waters, and in particular into groundwater.

3. The Bundesrat takes a very positive view of the fact that in order to reduce administrative effort the reporting cycles in the area of water legislation are to be harmonised further in close cooperation with the Member States and that the further inclusion and if necessary targeted amendment of the relevant provisions (Water Framework Directive, nitrates Directive, Directive on municipal waste water) is proposed.
4. The Bundesrat is critical of the Commission's intention, already expressed in another context, to bring about a tightening of the control and monitoring provisions applicable to all EU environmental legislation, in which the Commission regards water management as one of the most important target areas. These activities cannot be reconciled with the subsidiarity principle and will lead to a lasting increase in bureaucratic red tape disproportionate to what it can achieve in terms of environmental protection.
5. The Communication makes it clear that for sustainable water management equal consideration must be given to qualitative and quantitative aspects. The objectives of the Water Framework Directive and the Directive on flood risk management can be met only if there is a sufficient quantity of clean water available for the aquatic ecosystems. The significance of the availability of water is recognised as an important theme, particularly since water shortages and drought will continue to become more acute as a result of climate change. However, distinctions must be made between conditions in different parts of Europe, and those in Germany are not to be compared with those in southern Europe. The Bundesrat therefore expressly welcomes the finding that there are great regional differences in water supply within the EU and that therefore, in accordance with the subsidiarity principle, no uniform solution is proposed. In the Bundesrat's view it is particularly necessary to ensure that the proposed measures do not lead to across-the-board requirements to reduce water consumption.
6. However, the Bundesrat regards it as inappropriate that the Communication expresses the intention to take individual Member States' water management problems (e.g. illegal water abstraction in Spain, water shortages and drought in

southern Europe) as grounds for Europe-wide activities. The Bundesrat likewise does not support the proposal to impose on Member States 'water accounts' for catchment areas in order to provide information on water in- and out-flow. These questions typically concern management bases to be ascertained on the spot and are fundamentally unsuited for action at Commission level.

7. The Bundesrat takes a critical view of the Commission's particular focus on economic instruments in order to achieve the environmental objectives of the Water Framework Directive and to stimulate more efficient water use. In particular, the Commission's criticism that only 49% of the management plans to promote more efficient water use provide for a change in charging policy and only 40% contain measures to improve consumption measurement completely disregards the fact that, e.g. in Germany, all consumption is measured, a tight-knit and effective system of originator-related cost assignment is already implemented in law through waste water charges, water abstraction charges and municipal charges laws, and there is therefore no need to change or further improve instruments to implement the Water Framework Directive.
8. The Bundesrat is receptive to the monetary valuation of ecosystem services. However, the ecosystem services approach is not contained in the Water Framework Directive.

In this respect the Commission's intention to develop a CIS (Common Implementation Strategy) guidance document for the further implementation of the concept of payment for ecosystem services goes beyond the Water Framework Directive's requirements for implementing economic instruments and is therefore to be rejected in the context of the process for implementing the Water Framework Directive.

9. The Bundesrat therefore asks the Federal Government to use its influence to ensure that the Commission's proposal in the Blueprint to develop a water trading guidance document jointly with the Member States in the context of the CIS process under the Water Framework Directive is not implemented.

The Blueprint contains the following explanation regarding this proposal (section 2.3, last paragraph before table 3):

'Lastly, water trading is another instrument, used mostly outside the EU, which could help to improve water efficiency and overcome water stress, if a sustainable overall cap for water use is implemented. Water trading entails relatively significant administrative costs and, in principle, only makes sense among water users in a defined river basin. Although it would not be helpful to set up such a system at EU level, the Commission proposes developing CIS guidance to help the development of water trading in the Member States that choose to employ it.'

'CIS guidance on water trading' would in the long run bring the privatisation of water resources into play and support it. In Germany (as in Europe in general) water is a public good. According to the preamble of the Water Framework Directive (recital 1) 'Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such.'

In Germany, the public water supply is enshrined as a service of general economic interest in the Federal Water Act (*Wasserhaushaltsgesetz*) and as a task under municipal authority and responsibility in the municipal regulations (*Gemeindeordnungen*). Groundwater, the best and in Germany the most important drinking water resource, is not eligible for ownership under German water law. Uses of groundwater can be allowed under water law only in accordance with the management decisions of the competent technical and legal authorities. That is the only way of ensuring sustainable water resources management, economical handling of the usable water supply and maintenance of good quantitative status within the meaning of the Water Framework Directive. Every permission for water abstraction under water law requires substantiated proof of need and economical use. Trading or an auction of water rights would not be compatible with German water law and a sustainable water policy.

The Commission itself (see above quotation) sees at best only limited sense in privatising water rights and/or water resources. Against the background of extensive discussions throughout the world, the link in substance between privatisation and water efficiency in the Blueprint is to be described as doubtful at best.

Also, the introduction of water trading and the requisite legal changes for it would be a political decision by the Member States under their own responsibility. A recommendation to support water trading in the form of a European CIS guidance document is therefore to be rejected and would not be consistent with EU water policy up to now.

10. Encouraging water efficiency in buildings must also take into account hygiene aspects in drinking water installations. Negative effects on public waste water infrastructure and water supply infrastructure are to be avoided.
11. When reusing water, the aspects of health care and the protection of soil water and groundwater are to be taken properly into account. The planned guidance on laying down ecologically necessary minimum water quantities should sufficiently reflect the different geographical, climatic and hydrological contexts.
12. Achieving a good status for all surface water and groundwater bodies requires considerable financial efforts by the *Länder*. The Bundesrat therefore advocates also being able to draw, for financing certain Water Framework Directive measures, on resources from the EU budget, European funds such as the Structural Fund and the Cohesion Fund or the CAP funds. The proposed commitment of 20% of the EU budget resources to include climate aspects in the multiannual financial framework can likewise contribute towards stronger support for water-related measures in connection with climate adaptation. In so far as the Commission's proposals on making the CAP more ecological should be achieved, account must be taken of the fact that appropriate measures such as buffer strips alongside bodies of water can also make an effective contribution towards promoting water retention and ecological upgrading of the water bodies.
13. The Bundesrat feels that the Commission has failed to adequately appreciate Member States' progress in implementing the Water Framework Directive. The substantial increase in implementation of the Directive is now already contributing not inconsiderably to the safeguarding of water resources.
14. At the present time the Bundesrat rejects new legislative proposals or other legal initiatives concerning waters. The focus should instead be on the implementation, comparable EU-wide, of existing Directives, in particular as regards measures, derogations, monitoring and reporting. In addition, closer harmonisation of

management plans under the Water Framework Directive with the first flood risk management plans should be sought.

15. Reducing flood risks by prioritising 'green infrastructure' needs sufficient social consensus, with particular regard to existing settlement structures and cultivated landscapes which have developed historically, and that consensus is to be reached hand in hand with flood risk management planning. In further developing 'green infrastructure', shifting adverse effects from one subject of protection to another is to be avoided. Water management installations can, if operated bilaterally, contribute decisively to regulating the landscape's water balance and to enabling compatibility between water retention and the requirements of the population and agriculture.
16. The Communication does not provide satisfactory answers to the challenges involved in revising the Directive with regard to environmental quality standards for priority substances. As regards more stringent rules for medicinal products in connection with expanding the substance list for priority substances, the Bundesrat again refers to its comments of 30 March 2012 (Bundesrat printed paper 56/12 (Resolution)). According to those comments, on the basis of the requirements of the proposal for a Directive higher costs than hitherto are to be expected when monitoring additional priority substances in the *Länder*. Measures which may become necessary to meet the requirements of the Directive, such as a possibly necessary '4th purification stage' for municipal waste water treatment plants would give rise to considerable additional costs for municipalities and consumers. Furthermore, the planned procedure regarding certain ubiquitous substances would lead in Germany to a huge worsening of the assessment of the chemical status of surface waters, since in some areas the environmental quality standards are exceeded even in waters which are faultless from an ecological point of view. This would cancel out successes in minimising local pollutant inputs into waters. Measures would in future be more difficult to implement and to communicate to the public, since they would be unable to achieve an improvement in chemical status. A separate description of the ubiquitous substances is not sufficient to solve the problems.
17. There is currently only a purely additive approach between substance law, the industrial emissions Directive and the Water Framework Directive. If an

environmental quality standard is breached under the Directive on priority substances, to date there is provision for checking the authorisation only under REACH. There is currently no link to the authorisation under legislation on plant protection products, medicinal products or biocides. The Bundesrat considers this to be absolutely essential.

18. Last but not least, the recognition of the need to upgrade and expand the Water Information System for Europe (WISE) is to be welcomed in principle. A precise, detailed examination is necessary, however, so that this does not entail increased and additional administrative and reporting burdens which bring no material progress. It is therefore absolutely indispensable that the Member States absolutely must be involved in the further development of WISE, so that it benefits everyone and does not become a 'data graveyard'.

19. The Bundesrat is sending these comments directly to the Commission.