

**KARMENU VELLA**

Member of the European Commission

Brussels, 07/06/2016  
Ref. Ares(2016)3249517

Mr Simon Coveney TD  
Minister  
Department of Environment, Community and Local Government  
Custom House, Custom House Quay  
Dublin 1, D01 W6X0  
IRELAND

Dear Minister Coveney

I congratulate you on your appointment as Minister of Environment, Community and Local Government. I understand you will have responsibility for a number of important environment issues in your portfolio and therefore I look forward to working with you to support the implementation of environment policies for the benefit of citizens in Ireland.

The Commission had numerous exchanges with Irish authorities on the implementation of EU water legislation in the past. We have supported Ireland in addressing implementation challenges related to the Water Framework Directive, the Drinking Water Directive and the Urban Waste Water Treatment Directive.

We have followed the recent debate on water charges and noted the press reports about the proposed suspension of domestic water charges. We also received a letter from your predecessor (ex-Minister Kelly) on the debate prior to him leaving office, in which he enquired about the Commission's legal interpretation of the provisions of the Water Framework Directive. In this regard I would like to draw your attention to the provisions of Article 9 of the Directive and their relationship to possible future actions of the Irish government on water charges.

Article 9(1) obliges Member States to take account of the principle of recovery of the costs of water services and to ensure an adequate contribution of the different water users including households to the recovery of the costs of water services. Article 9(4) provides that Member States shall not be in breach of the Directive if they decide in accordance with established practices not to apply the above provisions of Article 9(1), for a given water-use activity, where this does not compromise the purposes and the achievement of the objectives of the Water Framework Directive.

Consequently, if the established practice in Ireland is to have a system in place implementing the recovery of the costs of water services, in accordance in particular with the polluter pays principle, the Commission considers that the flexibility afforded to Member States as outlined in Article 9(4) would not apply.

I trust that the above-mentioned legal clarifications are helpful and will be fully taken into account in the ongoing discussions in order to avoid any non-compliance. My services and I remain available for any further clarifications that you might consider necessary.

Yours sincerely,





Comhshaol, Pobal agus Rialtas Áitiúil  
Environment, Community and Local Government



**Oifig an Aire**  
Office of the Minister

14 June 2016

Mr. Karmenu Vella,  
Member of the European Commission  
Rue de la Loi 200  
B-1049 Brussels  
Belgium

**Meeting with European Commissioner – Update on Irish Developments in relation to Water Services and the Water Framework Directive**

Dear Commissioner Vella,

Many thanks for your recent letter regarding the Water Framework Directive, and your congratulations on my appointment to this position. I am aware that there has been much on-going engagement between the Commission and Ireland on the implementation of the various Directives, including the Water Framework Directive, impacting on the water environment in Ireland. I, and my Government colleagues, view the continued improvement of water quality in Ireland and provision of sustainable water services supported by strong investment as a critically important element of my portfolio and so I look forward to working with you in this area.

I appreciate that you have followed the debate on domestic water charges in Ireland, which has been contentious. In the context of the facilitation of the formation of the minority Government, a 'Confidence and Supply Arrangement' has been agreed with the main opposition party. As part of the agreement, domestic public water charges will be suspended for a minimum period of nine months from the beginning of the utility's (Irish Water) next billing cycle (1 July 2016). I will be introducing the necessary legislation to Dáil Éireann in the next week. During the period of suspension of water charges, the Government will be providing Irish Water with additional Exchequer funding to replace the domestic revenue foregone and ensure that planned investment in upgrading infrastructure remains on track.



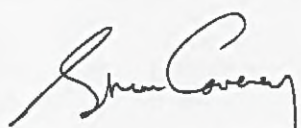
This suspension period will provide the space for a more rational debate on the long-term funding of domestic water charges in Ireland. It will be an important opportunity for parliament, with the input of an Expert Commission, to examine all of the policy imperatives, the investment need, the national and international obligations etc., in coming to a view on the appropriate manner to fund domestic public water services and Irish Water in the longer term. The Expert Commission will be established shortly and I intend that it will include both national and international experts in water service delivery and financing. The proposed terms of reference are attached. The Commission is to report within five months of its establishment. Its recommendations are to be considered by a Special Oireachtas Committee within a period of three months and the Committee's recommendations are to be considered and voted upon by the Oireachtas within a one-month period thereafter. The legislation will allow for some period of extension of the suspension of charges to facilitate the completion of this work, if necessary.

In this regard, I appreciate the clarifications provided by the Commission regarding the operation of the Water Framework Directive and specifically article 9. Compliance with the Water Framework Directive, to which Ireland is firmly committed, will be fully taken into account in the work ahead. Given the importance to both Ireland and the Commission of setting in place an appropriate enduring funding framework for the sustainable delivery of water services in Ireland, providing space and time for the Oireachtas process to be completed is critically important.

With this in mind, I would welcome the opportunity to meet with you, and more fully brief you on this process, the work which is well underway on the development of the second-cycle River Basin Management Plans and other related matters regarding the implementation of the Water Framework Directive, which have been the subject of engagement between the Commission and Ireland.

Accordingly, if it would suit you, I would be available to travel to Brussels to meet with you on Friday 8 July in order to discuss these matters in greater detail.

Yours sincerely,



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Simon Coveney T.D.,  
Minister for the Environment, Community  
and Local Government.



**Karmenu VELLA**  
Member of the European Commission

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Brussels, **12 JAN. 2017**  
*Ref. Ares(2017)211588*

Mr Simon Coveney TD  
Minister for Housing, Planning, Community  
and Local Government  
Custom House  
Dublin D01 W6X0  
IRELAND

Dear Minister,

I would like to follow-up to our meeting in June where you presented the process to find an adequate solution to the funding of domestic water services in Ireland. On that occasion I expressed my respect for this political process, which is of utmost importance for the identification of a consensual set of solutions which would allow by the same token the satisfaction of the legitimate interests of Irish consumers, of the investment needs in the water infrastructure, and the compliance with the EU's Water Framework Directive<sup>1</sup>.

It was in this spirit that the European Commission made its submission to the Expert Commission on Domestic Public Water Services. The submission was drafted to help highlight the parameters within which the issue should be considered.

I would therefore appreciate if, at your earliest convenience, you could share with me your reading of the recommendations recently formulated by the Expert Commission and of the prospects of the ensuing political process.

The Directive is a flexible instrument, allowing the public authorities of each Member State a margin of appreciation. However, any water pricing policy must comply with the principles of cost recovery and 'polluter pays', which are also fundamental to the Directive. It is therefore important that the ongoing decision-making process leads to sound and lasting results, which must bring Ireland back in compliance with the Directive.

The European Commission encourages therefore the Irish authorities to give particular attention to the following key issues which, taking into account the specific circumstances of Ireland, and at the same time striking a fair balance between the interests of the consumers and the needs of the water sector, are indispensable for an outcome that complies with the Directive:

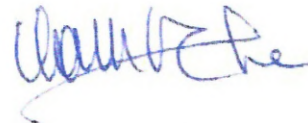
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<sup>1</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, OJ L 327, 22.12.2000, p. 1–73.

- the recovery of costs must ensure that the Irish water sector meets its serious needs in terms of both maintenance and investment in water and waste water infrastructure;
- in order for the charge on excessive or wasteful use of water to attain its purpose, the consumption of water for normal use should be set at a reasonable level, and the charge for excessive or wasteful use of water should be dissuasive. The completion of metering will be instrumental to this effect.

I am looking forward to your response and to working with you in order to arrive at a sustainable and legal outcome on this issue.

Yours sincerely,



Karmenu Vella



EUROPEAN COMMISSION

Cabinet of Commissioner Karmenu Vella  
Deputy Head of Cabinet

Brussels, 29/07/2016  
Ref. Ares(2016)4399204

H.E. Mr Tom Hanney  
Ambassador  
Permanent Representation of Ireland to the EU  
Rue Froissart 50  
1040 Brussels

Dear Ambassador,

On behalf of Mr Karmenu Vella, European Commissioner for Environment, Maritime Affairs and Fisheries, I would like to ask you to transmit the enclosed letter to Mr Simon Coveney TD, Minister, Department of Environment, Community & Local Government.

Thank you very much for your kind cooperation.

Yours sincerely,

  
Gabriella Pace



**Karmenu VELLA**

Member of the European Commission

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Brussels, 29/07/2016  
Ref. Ares (2016)4399204

Mr Simon Coveney T.D.  
Minister for Housing, Planning and Local Government  
Department of Environment, Community and Local Government  
Kildare Street  
Dublin 2  
IRELAND

Dear Minister,

I would like to thank you for the meeting we had last 8 July and for you having taken the time to come and explain at length to the European Commission the background of the ongoing discussions in the Republic of Ireland related to water charges. These explanations have helped us grasp better your vision and the wider intentions of the Irish authorities.

It is useful to note that Directive 2000/60/EC establishing a framework for Community action in the field of water policy (Water Framework Directive), as well as a range of other binding EU instruments, lay down requirements in terms of the quality of water and water services that the Member States must provide to households. Securing the necessary quality of the water and water services requires complying with specific and binding quality norms. Complying with these obligations needs investments in the corresponding infrastructure. We have noted in this respect that investment in water is clearly acknowledged as necessary by the Irish authorities themselves. In its recent Business Plan, Irish Water indicates that it needs to invest €5.5bn to bring Ireland's water infrastructure and services to an "acceptable level". Numerous challenges for Ireland are mentioned and, furthermore, the recent Irish programme for government mentions the "dilapidated national water infrastructure".

On the other hand, and not less important, the 'polluter pays' principle, enshrined both in EU law, as well as in the legal systems of the EU Member States themselves requires that Member States put in place specific mechanisms that link the amount and destination of water and water services used by households to the costs they bear in order to be able to do so. In this vein, the Water Framework Directive sets out requirements for the recovery of costs for water services and provides that water pricing policies must stimulate efficient water use by all users. The same Directive also requires Member States to ensure an adequate contribution of the different water users, disaggregated into at least industry, households and agriculture, to the recovery of the costs of water services.

It is worth also noting that domestic water charges are a well-established practice across all Member States. Users generally pay for the water they consume and it is difficult to think of an equally effective mechanism for incentivising efficient water use among domestic users. This approach has been systematically confirmed in the practice of Member States as a well-functioning precondition for attaining good water quality, with good examples of well-functioning systems taking social factors into account.

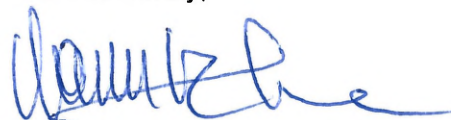
Already prior to your visit, we became aware of the fact that the Irish authorities have decided to suspend the application of the regulatory provisions in force which set out the water charges for domestic users. By the same token, an expert committee reporting to the Irish Parliament was established. Among other tasks, this committee is mandated to examine the need for maintenance of the water infrastructure, the need to encourage water conservation and the environmental standards and obligations binding Irish authorities, including those binding obligations deriving from EU-law. The committee is requested to make recommendations to the Parliament, which will take a decision with regard to the suspended application of the provisions on water charges.

Let me reiterate here, as I have already done during our meeting, that the Commission has concerns over how the current situation in Ireland fits with the requirements of the Water Framework Directive. On the other hand, we take note of the fact that the Irish authorities have decided they need a certain amount of time in order to assess how best to provide a service that meets with the legal and regulatory obligations. It goes without saying that my services are on hand to assist where possible.

Both the expert committee and, more generally, all Irish authorities should identify the most suitable regulatory framework in the light of the key elements, including the legal and regulatory obligations we have referred to, all of which are clearly and unequivocally enshrined in the Water Framework Directive. We are confident that a strong solution that serves the best interests of the population will be found.

I would like to suggest that we remain in contact over this important matter in the following months and would appreciate being kept informed of developments in this matter.

Yours sincerely,



Karmenu Vella