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### **Commission/Kommission III**

Significant current developments in Rural Law

**Rapport national pour/National report/Landesbericht Norway**

**Rapporteur/Berichterstatter Christopher Price – Director of Policy and Advice CLA**

## **Significant current developments in rural law**

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### Introduction

This paper is concerned with rural environmental law in the broadest sense of the term. As such it considers a range of topics including biodiversity, climate, water and soils.

Whilst there may not have been a significant number of changes to European rural environmental legislation or jurisprudence in recent years, there have been some, principally the Common Agricultural Policy. More recently there was the Invasive Species Regulation.

Moreover there have been a number of major EU policy initiatives which have the potential to prompt some major changes in the coming years. These include the proposal to introduce a “No Net Loss” policy and the Refit review of the Birds and Habitats Directives

### **What are the main developments in rural law since the last Congress?**

#### Common Agricultural Policy

The details of the new CAP will be well known. There were two significant impacts on rural environmental law. The first is the so called “greening measures” included in the

Basic Payment Scheme (BPS)<sup>1</sup>, the second is a number of the priorities under the Rural Development Regulation<sup>2</sup>.

The greening measures are attached to 30% of the farmers payment. Consequently if these measures are not adhered to, only 70% of the payment will be received. It is, however, worth noting that in future the 30% will increase, as penalties will be attached for not providing the greening requirements.

There are three elements to the greening requirements.

**Crop Diversification:** Farms with 10 – 30ha of eligible arable land will have to grow at least two crops. The main crop cannot make up more than 75%. Farms with more than 30ha of eligible arable land will need to grow at least three crops. The main crop cannot be more than 75% and the two main crops together should not cover more than 95%. There are strict rules on what constitutes distinct crop for these purposes.

**Permanent Grassland:** The level of permanent grassland, in relation to agricultural area, will continue to be maintained at a national level. If the level of grassland falls below 5% of that recorded in 2015, it must be reinstated.

**Ecological focus Areas (EFA):** Farms with more than 15ha of arable land must provide an Ecological Focus Area of 5% of their arable land area, within their agricultural landscape.

There are a number of features and options which count towards EFAs, including fallow land, nitrogen fixing crops, catch crops, green cover, buffer strips and landscape features including in-field trees, ponds, hedgerows and ditches.

Not all farms will have to adhere to all three greening requirements. Some are exempt because of the thresholds applied and others because of specific exemptions. These include units of the holding which are certified organic, farms with more than 75% of their eligible agricultural area in permanent grass or temporary grass, and farms with more than 75% of the arable area in temporary grass or fallow. In these last two cases the arable area must be less than 30ha. Finally there is an exemption in respect of claims made in 2015 with new land and different crops.

The rural development aspects of the CAP remain largely untouched by the reform. As in the past, it will be implemented through national and/or regional rural development programs (RDPs) which, for a seven-year period, set out the actions to be undertaken and the corresponding allocation of funding for these measures.

However this time Member States will have to build their RDPs based upon at least four of six common priorities. These priorities include. “Restoring, preserving and enhancing ecosystems related to agriculture and forestry” and “Promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors”.

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<sup>1</sup> Regulation 1307/2013

<sup>2</sup> Regulation 1305/2013

## No Net Loss

The European Commission consulted<sup>3</sup> on the introduction of the principle of "No Net Loss."

This requires that all planned developments expected to have an impact on biodiversity adhere to a strict "mitigation hierarchy", whereby priority is given, first, to avoiding or preventing negative impacts; second, where impacts cannot be avoided, to minimising damage and rehabilitating their effects; and lastly, to offsetting or compensating for residual adverse impacts.

Some Member States, including France and Germany, already have a No Net Loss objective enshrined in their legislation.

## Birds and Habitats Directives - Refit

There has been no major change to the primary legislation, the Birds and Habitats Directives, the ("Nature Directives") in recent years.

The Commission has, however, embarked on the Refit Exercise

The overall aim is to undertake a comprehensive policy evaluation to assess whether the legislation is "fit for purpose" on the basis of the following criteria: relevance, effectiveness, efficiency, and coherence, as well as its EU added value.

The fitness check includes an assessment of:

- implementation and integration successes and problems.
- the costs of implementation and of non-implementation of the legislation.
- the administrative burden of implementation and opportunities for improving implementation and reducing administrative burden without compromising the integrity of the purpose of the directives.
- the situation of implementation in different Member States
- the views of key stakeholder groups

The Commission has yet to conclude the exercise, however early indications suggest there is little desire for any major changes to the Directives themselves. The greater likelihood is for a more emphasis on the provision of guidance for those officials, at all levels, charged implementation.

## Invasive Alien Species

Invasive Alien Species are animals and plants that are introduced accidentally or deliberately into a natural environment where they are not normally found and which have serious negative consequences for their new environment. They represent a major threat to native plants and animals in Europe, causing damage worth billions of euros every year.

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<sup>3</sup> [http://ec.europa.eu/environment/consultations/nnl\\_en.htm](http://ec.europa.eu/environment/consultations/nnl_en.htm)

The Regulation 1143/2014 on invasive alien species entered into force on 1 January 2015.

It seeks to address the problem of invasive alien species in a comprehensive manner so as to protect native biodiversity and ecosystem services, as well as to minimize and mitigate the human health or economic impacts that these species can have.

The regulation foresees three types of interventions; prevention, early detection and rapid eradication, and management. A list of invasive alien species of Union concern will be drawn up and managed with Member States using risk assessments and scientific evidence.

## **What are the sources for each of these developments?**

### **Pre- existing Commitments**

#### **Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention)**

The Bern Convention is probably the most significant international agreement in the context of rural environmental law. Contracting parties are obliged to maintain populations of wild flora and fauna at a level which corresponds to ecological, scientific and cultural requirements and steps must be taken to promote national policies for the conservation of wild flora, fauna and habitats. As regards habitats, contracting parties are required to take appropriate and necessary measures to ensure the conservation of habitats of wild flora and fauna

The Convention on Biological Diversity is more a statement of political aspirations rather than something imposing any direct obligations. The contracting parties accept a number of very broad obligations which are then heavily qualified; little is required by way of specific actions. We do not see any gaps or inconsistencies between these obligations and those under the Nature Directives.

The structure and obligations have clearly been a major influence on the contents of the Nature Directives and those Directives effectively give legislative force to the terms of the Convention. As such the Convention is probably now of limited relevance, other than as a general exhortation for Member States to co-operate on conservation issues.

#### **Ramsar Convention**

The Ramsar Convention imposes, again, very general obligations to designate and subsequently monitor wetlands of international importance. The Convention's real merit is in requiring contracting parties to have regard to wetlands conservation; this is done in a tangible form by the Nature Directives.

The stated aim of the World Heritage Convention is to "ensure that effective and active measures are taken for the protection conservation and presentation of the cultural and

natural heritage” situated in the territories of the contracting parties. “Natural Heritage” is defined in a very broad sense extending to features which are of “outstanding universal value” not only because of their scientific or conservation value but also because of their aesthetic value. As a result the scope of the Convention goes beyond that of the Nature Directives and raises issues which are not directly relevant to nature or biodiversity conservation.

By way of conclusion, the terms of the various international obligations are so general and aspirational in their tone, they are really of very little relevance beyond the political realm. They emphasise the importance of co-operation between countries and provide an overarching framework for giving that co-operation legislative effect, but they should not be treated as imposing specific requirements in themselves.

## **Recent Commitments**

### **United Nations Conference on Sustainable Development (Rio + 20)**

The United Nations Conference on Sustainable Development (UNCSD), also known as Rio 2012, Rio+20 or Earth Summit 2012 was the third international conference on sustainable development aimed at reconciling the economic and environmental goals of the global community. It was intended to be a high-level conference, including heads of state and government or other representatives and resulting in a focused political document designed to shape global environmental policy

At Rio+20, world leaders renewed their commitment to sustainable development and to ensuring the promotion of an economically, socially and environmentally sustainable future for the planet, for present and future generations.

The primary result of the conference was the nonbinding document, "The Future We Want," a 49 page work paper. In it, the heads of state renewed their political commitment to sustainable development and declared their commitment to the promotion of a sustainable future.

It outlined that in the light of a growing population and in an increasingly urbanised world, such challenges require that international action be taken in a number of areas, including: Food security, nutrition and sustainable agriculture<sup>4</sup>; water<sup>5</sup>, sustainable energy<sup>6</sup> and climate change<sup>7</sup>, biodiversity, desertification land degradation and drought<sup>8</sup>, chemicals and waste<sup>9</sup>. All nations reaffirmed commitments to phase out fossil fuel subsidies<sup>10</sup>.

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<sup>4</sup> The Future We Want 108-118

<sup>5</sup> The Future We Want 119-124

<sup>6</sup> The Future We Want 124-129

<sup>7</sup> The Future We Want 190-192

<sup>8</sup> The Future We Want 204-209

<sup>9</sup> The Future We Want 213-228

<sup>10</sup> The Future We Want 225

## Biodiversity 2020

In 2011 the Commission adopted a new strategy aimed at halting the loss of biodiversity and ecosystem services in the EU by 2020: 'Our life insurance, our natural capital: an EU biodiversity strategy to 2020'<sup>11</sup>

It lists six main targets, and 20 actions to help reach this goal.

The six targets cover:

- Full implementation of EU nature legislation to protect biodiversity
- Better protection for ecosystems, and more use of green infrastructure
- More sustainable agriculture and forestry
- Better management of fish stocks
- Tighter controls on invasive alien species
- A bigger EU contribution to averting global biodiversity loss

## The 7th Environment Action Programme (7EAP)

EAP7 is intended to guide European environment policy until 2020. In order to give more long-term direction it sets out a vision beyond that, of where it wants the Union to be by 2050:

*"In 2050, we live well, within the planet's ecological limits. Our prosperity and healthy environment stem from an innovative, circular economy where nothing is wasted and where natural resources are managed sustainably, and biodiversity is protected, valued and restored in ways that enhance our society's resilience. Our low-carbon growth has long been decoupled from resource use, setting the pace for a safe and sustainable global society."*

The programme entered into force in January 2014. It is worth spending some time considering its contents concerns and requirements. In many ways it consolidates the various discussions and proposals that preceded it at both global and European level and sets out a series of more specific recommendations that are intended to set the political and legislative agenda for the coming years.

### **The Thematic Priorities**

EAP7 identifies three key Thematic Priorities:

For each of the Thematic Priorities, there is a discussion of the issues followed by a set of targets and actions required to attain them. In each case the list of requirements is left open by the use of the phrase "in particular".

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<sup>11</sup> COM/2011/0244 final

## **1. To protect, conserve and enhance the Union's Natural capital.**

"Natural capital" refers to the biodiversity that provides the goods and services humanity relies on, from fertile soil and productive land and seas to fresh water and clean air. It includes vital services such as pollination of plants, natural protection against flooding, and the regulation of the climate.

The EU already has a substantial body legislation aimed at protecting, conserving and enhancing natural capital, including the Water Framework Directive, the Marine Strategy Framework Directive, the Urban Wastewater Directive, the Nitrates Directive, the Floods Directive, the Priority Substances Directive, the Air Quality Directive and related directives and the Habitats and Birds Directives,.

However, recent assessments such as The State of Nature Report for 2007-2012<sup>12</sup> show that biodiversity in the Union is still being lost and that most ecosystems are seriously degraded as a result of various pressures. For example EAP7 notes<sup>13</sup> that the obligation in the Water Framework Directive to achieve the objective of 'good ecological status' by 2015 is likely to be met only for 53 % of surface water bodies in the Union.

EAP7 goes on to observe<sup>14</sup> that "since agriculture and forestry together represent 78 % of land cover in the Union, they play a major role in maintaining natural resources, especially good quality water and soil as well as biodiversity and diverse cultural landscapes".

The paragraph goes on "Greening of the CAP will promote environmentally beneficial agricultural and forestry practices such as crop diversification, the protection of permanent grassland and grazing land".

As consequence, there is a commitment<sup>15</sup> to "developing and implementing a renewed Union Forest Strategy that addresses the multiple demands on, and benefits of, forests and contributes to a more strategic approach to protecting and enhancing forests, including through sustainable forest management". In September 2013 The Commission issued a Communication<sup>16</sup> entitled "A new EU Forest Strategy: for forests and the forest-based sector"

The theme also has much to say on sustainable land use<sup>17</sup>. It maintains that the "degradation, fragmentation and unsustainable use of land...is jeopardising the provision of several key ecosystem services, threatening biodiversity and increasing Europe's vulnerability to climate change and natural disasters. It is also exacerbating soil degradation and desertification".

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<sup>12</sup> COM/2015/0219 final

<sup>13</sup> EAP7 para 19.

<sup>14</sup> EAP7 para 20.

<sup>15</sup> EAP7 para 28 (viii)

<sup>16</sup> COM(2013) 659 final

<sup>17</sup> EAP7 para 23

Soil protection remains a major concern<sup>18</sup>. While the Commission may have decided to withdraw the proposal for a Soil Framework Directive, in May 2014 in the face of opposition from a number of Member States. It continues to press for change<sup>19</sup>. EAP 7 urges the Union and its Member States to reflect as soon as possible on how soil quality issues could be addressed using a targeted and proportionate risk-based approach within a binding legal framework. Targets should also be set for sustainable land use and soil.

Accordingly there is a commitment<sup>20</sup> to increasing efforts to reduce soil erosion and increase soil organic matter, to remediate contaminated sites and to enhance the integration of land use aspects into coordinated decision-making involving all relevant levels of government, supported by the adoption of targets on soil and on land as a resource, and land planning objectives

The use of nitrates and phosphorus may have declined, but their use continues to have a detrimental effect on the natural environment<sup>21</sup>. As such EAP7 includes<sup>22</sup> a requirement to take “further steps to reduce emissions of nitrogen and phosphorus, including those from urban and industrial wastewater and from fertiliser use, inter alia, through better source control, and the recovery of waste phosphorus.”

Lastly the Theme looks at the restoration of degraded ecosystems<sup>23</sup> It requires the full implementation of the Birds and Habitats Directives. This is clearly a major priority for the Commission. The first requirement<sup>24</sup> for this theme is “stepping up the implementation of the EU Biodiversity Strategy without delay, in order to meet its targets”.

## **2. To turn the Union into a resource – efficient green and competitive low carbon economy.**

At a time of increasing natural resource prices, scarcity and dependency on imports, Europe's competitiveness and desire for sustainable growth will depend on improving resource efficiency across the economy.

EAP7 notes<sup>25</sup> that the Europe 2020 Strategy already aims to promote sustainable growth by developing a more competitive low-carbon economy that makes efficient, sustainable use of resources.

It goes on “Its ‘Resource-efficient Europe’” flagship Initiative aims to support the shift towards an economy that is efficient in the way it uses all resources, absolutely decouples economic growth from resource and energy use and its environmental impacts, reduces GHG emissions, enhances competitiveness through efficiency and

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<sup>18</sup> EAP7 para 24

<sup>19</sup> EAP7 para 25

<sup>20</sup> EAP7 para 28 (vi)

<sup>21</sup> EAP7 para 26

<sup>22</sup> EAP7 para 28 (vii)

<sup>23</sup> EAP7 para 27

<sup>24</sup> EAP7 para 28 (i)

<sup>25</sup> EAP7 para 29

innovation and promotes greater energy and resource security, including through reduced overall resource use.”

There is a particular emphasis on improving efficiency in water sector<sup>26</sup> .

Notwithstanding droughts and water scarcity, an estimated 20-40 % of Europe’s available water is still being wasted, for instance, through leakages in the distribution system or inadequate uptake of water efficiency technologies.

Moreover the pressures will only increase as a result rising demand and the impacts of climate change. As a result EAP7 requires action to ensure that citizens have access to clean water and that water abstraction respects available renewable water resource limits in accordance with the Water Framework Directive, including by the use of market mechanisms such as water pricing.

As regards the biggest consuming sectors, including agriculture, they should be “encouraged” (note not “required”) to prioritise the most resource-efficient use of water. As an alternative to regulation, progress will “be facilitated by accelerated demonstration and rolling out of innovative technologies, systems and business models building on the Strategic Implementation Plan of the European Innovation Partnership on Water”.

EAP7 sets out the conditions that aim to transform the EU into a resource-efficient, low-carbon economy. The more specific requirements include<sup>27</sup>:

Full delivery of the climate and energy package to achieve the 20-20-20 targets (20% cut in GHG emissions, 20% of EU energy from renewable and 20% improvement in energy efficiency) and agreement on the next steps for climate policy beyond 2020;

Significant improvements to the environmental performance of products over their life cycle;

Reductions in the environmental impact of consumption, including issues such as cutting food waste and using biomass in a sustainable way.

### **3. To safeguard the Union’s citizens from environmental –related pressures and risks to health and well being**

The third Thematic Priority covers challenges to human health and wellbeing, such as air and water pollution, excessive noise, and chemicals. It aims to make sure that Europe is sufficiently resilient to challenges posed by new and emerging risks, including the impacts of climate change.

It makes a number of observations that are particularly relevant to rural areas; for example flooding<sup>28</sup> “The adverse consequences of floods and drought for human health

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<sup>26</sup> EAP7 para 41

<sup>27</sup> EAP7 para 43

<sup>28</sup> EAP7 para 46

and economic activity are being experienced more frequently, partly due to changes to the hydrological cycle and land use.”

There is a rather half hearted commitment<sup>29</sup> to improving water management. Member States are asked to make “increasing efforts to implement the Water Framework Directive, the Bathing Water Directive and the Drinking Water Directive, in particular for small drinking water supplies”.

Endocrine Disrupters are a further concern<sup>30</sup> “The Union will further develop and implement approaches to address combination effects of chemicals and safety concerns related to endocrine disruptors in all relevant Union legislation. In particular, the Union will develop harmonised hazard-based criteria for the identification of endocrine disruptors”. This commitment has subsequently been backed up by a Commission consultation exercise.

In the light of this EAP7, Member States are asked<sup>31</sup> to ensure that they:

- update air quality and noise legislation;
- improve implementation of legislation relating to drinking and bathing water;
- tackle hazardous chemicals, including nanomaterials, chemicals that interfere with the endocrine system and chemicals in combination.

### **The Enabling Framework**

A number of horizontal measures, described as “an enabling framework” are introduced so as to achieve the Thematic Priorities. The Commission describes<sup>32</sup> the measures as the “Four Is”

- Improved implementation
- Increased information
- Secured investments
- More integration

#### **4. Improved implementation: "Good for the environment, our health and our wallets"**

EAP7 notes<sup>33</sup> the high number of infringements, complaints and petitions relating to environmental laws and maintains it “shows the need for an effective, workable system of checks and balances at national level to help to identify and resolve implementation problems, along with measures to prevent them from arising in the first place”,

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<sup>29</sup> EAP7 para 54(iii)

<sup>30</sup> EAP7 para 50

<sup>31</sup> EAP7 para 54

<sup>32</sup> Factsheet: 7th EAP - General Union Environment Action Programme to 2020

<sup>33</sup> EAP7 para 58

Full implementation of EU waste legislation would, the Commission maintains<sup>34</sup> save €72 billion a year; increase the annual turnover of the EU waste management and recycling sector by €42 billion; and create over 400,000 new jobs by 2020

The Commission believes in needs to focus on four key areas.

Firstly, the way in which knowledge about implementation is collected and disseminated needs be improved to help the general public and environment professionals fully understand the purpose and benefit of Union environment legislation and how national and local administrations give effect to Union commitments<sup>35</sup>. This requires that systems at national level actively disseminate information about how Union environment legislation is being implemented, and complementing such information with a Union level overview of individual Member States' performance<sup>36</sup>

Second, the Commission will be extending the requirements relating to inspections and surveillance to the wider body of EU environment law, and further developing inspection support capacity at Union level<sup>37</sup>. This will involve extending the binding criteria for effective Member State inspections and surveillance to the wider body of Union environment law, and further developing inspection support capacity at Union level and by the reinforcement of peer reviews and best practice sharing, with a view to increasing the efficiency and effectiveness of inspections<sup>38</sup>;

Thirdly, the way in which complaints about implementation of Union environment law are handled and remedied at national level need to be improved where necessary<sup>39</sup>. This requires ensuring consistent and effective mechanisms at national level for the handling of complaints about implementation of Union environment law<sup>40</sup>;

Lastly, the Commission maintains that citizens need to have effective access to justice in environmental matters and effective legal protection, in line with the Aarhus Convention and developments brought about by the entry into force of the Lisbon Treaty and recent case law<sup>41</sup>. This means ensuring that national provisions on access to justice reflect the case law of the Court of Justice and promoting non-judicial dispute resolution as a means of finding amicable and effective solutions for disputes in the environmental field<sup>42</sup>

## **5. To improve the knowledge and evidence base for Union environment policy.**

Developments in scientific research, monitoring and reporting mean that our understanding of the environment is constantly increasing. This Commission understandably wants this knowledge base to be made more accessible to citizens and policymakers so as to ensure policy continues to draw on a sound understanding of the

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<sup>34</sup> Factsheet: 7th EAP - General Union Environment Action Programme to 2020

<sup>35</sup> EAP7 para 59

<sup>36</sup> EAP7 para 65(i)

<sup>37</sup> EAP7 para 60

<sup>38</sup> EAP7 para 65(iii)

<sup>39</sup> EAP7 para 61

<sup>40</sup> EAP7 para 65(iv)

<sup>41</sup> EAP7 para 62

<sup>42</sup> EAP7 para 65(v)

state of the environment. It therefore aims to improve the way data and other information is collected, managed and used across the EU; invest in research to fill knowledge gaps and develop a more systematic approach to new and emerging risks. Whilst important, none of this is likely to have a direct impact on rural law.

## **6. To secure investment for environment and climate policy and address environmental externalities**

Achieving the objectives for the climate and wider environment must be done in a cost effective way but it still needs adequate finance<sup>43</sup> Efficiency savings and reducing the externalities will not be enough: public and private sector funding for environment and climate related expenditure needs to be increased<sup>44</sup>.

In some areas this is made all the more difficult because of “the absence of, or distortion to, price signals arising from a failure to account properly for environmental costs or from public subsidies for environmentally harmful activities”<sup>45</sup>. Accordingly the commission intends to address the issue of externalities. The methods proposed could have a significant impact on rural business, involving as they do applying the polluter-pays principle more systematically, in particular through the phasing out of what the Commission calls “environmentally harmful subsidies”, and considering fiscal measures such as shifting taxation away from labour towards pollution.

There is also a clear desire for existing funding streams to work harder for the environment. In its proposals for the 2014-2020 Union Multiannual Financial Framework it improved the mainstreaming of environment and climate objectives in all Union funding instruments, it has also proposed raising climate-related expenditure to at least 20% of the whole budget.

Looking forward, in key policy areas such as agriculture, rural development and cohesion policy, incentives for the provision of environmentally-beneficial public goods and services will be enhanced, so as to ensure that funds are spent more effectively and in line with environment and climate objectives.<sup>46</sup>

There is also a desire to make more use of market-based instruments, so as to incentivise private sector involvement such as payments for ecosystem services.<sup>47</sup>

The need to monetise environmental goods is emphasised. The value of ecosystems and the cost of their depletion will be measured so as to inform policy and investment decisions. Work to develop a system of environmental accounts, including physical and monetary accounts for natural capital and ecosystem services, will need to be stepped

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<sup>43</sup> EAP 7 para 84 (a)

<sup>44</sup> EAP 7 para 84 (b)

<sup>45</sup> EAP 7 para 75

<sup>46</sup> EAP 7 para 78

<sup>47</sup> EAP 7 para 76

up<sup>48</sup>. This directly supports the outcome of Rio+20, which called for broader measures of progress to measure well-being and sustainability to complement GDP<sup>49</sup>.

In addition incentives and methodologies will be put in place to stimulate companies to measure the environmental costs of their business and the profits derived from using environmental services and to disclose environmental information as part of their annual reporting. Companies will be encouraged to exercise due diligence, including throughout their supply chain<sup>50</sup>.

## **7. To improve environmental integration and policy coherence**

Although integrating environmental protection concerns into other Union policies and activities has been a Treaty requirement since 1997, the Commission maintains that it has not been sufficient to reverse all negative trends. The achievement of many of the priority objectives of 7 EAP will demand even more effective integration of environmental considerations into other policies. Legislation such as the Strategic Environmental Assessment Directive<sup>51</sup> and Environmental Impact Assessment Directive<sup>52</sup>, when correctly applied, are effective tools for ensuring that environmental protection requirements are integrated in plans and programmes as well as in projects<sup>53</sup>.

Therefore EAP 7 includes<sup>54</sup> a number of priority objectives designed to enhance integration. These policies should further contribute to meeting environment-related targets and objectives. Moreover the Commission also recommends that efforts primarily intended to achieve environmental improvements should be designed to deliver benefits also for other policies wherever possible.

The intention is that better integration of environmental concerns into other policy areas, such as regional policy, agriculture, fisheries, energy and transport will ensure better decision-making and coherent policy approaches that deliver multiple benefits.

Two further horizontal priority objectives complete the programme: tackling local and global challenges together. The seventh objective is to make the Union's cities more sustainable, and is therefore not of relevance to rural lawyers. The eighth is to help the Union address international environmental and climate challenges more effectively. This has been discussed above.

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<sup>48</sup> EAP 7 para Para 84 (vii)

<sup>49</sup> EAP 7 para 83

<sup>50</sup> EAP 7 para 84 (ix)

<sup>51</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

<sup>52</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

<sup>53</sup> EAP 7 para 85

<sup>54</sup> EAP 7 para 88

## **Water Framework Directive Implementation Report 2015**

In March 2015 the Commission reported<sup>55</sup> to the Parliament and to the Council on the implementation of this Water Framework Directive. The report was based on the analysis of the reports submitted by Member States. Particular concern founded included excessive abstraction for irrigation around the Mediterranean and Black Sea, widespread nutrient pollution from agriculture, and changes to river flow as a result of poorly planned hydropower or flood protection, or measures to encourage navigation.

While significant investments were still required in many areas, the Commission pointed out that a review of the 2007-13 financing period showed that many Member States had not exploited available EU funding to support water objectives, for instance to treat waste water or to reduce flood risks by restoring flood plains and wetlands.

### **What are their effects; and do any difficulties in implementation arise?**

We may see new legislation, for example depending on the outcome of the No Net Loss initiative.

It seem highly likely we will see a push to complete the implementation of certain legislation, which have a direct impact on existing rural law, such as the Water Framework Directive, the Bathing Water Directive and Drinking Water Directive. To ensure the better integration of various policy initiatives, the Strategic Environmental Assessment Directive and the Environmental Impact Assessment Directive will be fully implemented.

The review of the Birds and Habitats Directives may be supplemented by some guidance on, say, proportionality, but the emphasis is still likely to be on implementation if biodiversity targets are going to be achieved.

Strategies such as the Blueprint to Safeguard Europe's Water Resources together with agreeing and implementing an EU Strategy on adaptation to climate change, including the mainstreaming of climate change adaptation into key Union policy initiatives and sectors, will almost certainly go ahead.

We are likely to see an increasing emphasis on enforcement, including binding inspection targets for regulators and more exchanging of good practice between regulators in different Member States. In addition efforts will be made to increase the awareness of citizens in the Member States, so they know what their governments should be doing and how to complain if they do not do it.

Money will be needed, which will see the continued exploration of payments for ecosystem services such though No Net Loss and biodiversity offsetting. There will also be greater emphasis on sending the right signals to encourage environmentally aware behaviour; such through the polluter pays principle and the taxation system.

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<sup>55</sup> COM/2015/0120 final \*/

Achieving these aims will not always be straightforward though. Some particularly useful work<sup>56</sup> on this has been done by the European Union Network for the implementation and Enforcement of Environmental Law ("IMPEL"). There are a number of clear challenges.

With water, diffuse-source pollution from agriculture, the over-abstraction of water including the over-allocation of water resources and illegal abstractions remain a major challenge, as do the continuing pollution problems caused by inadequate investment and failing wastewater treatment and sewerage systems. There are also problems with insufficient evidence, insufficient capacity; and disproportionate cost of implementation

Moreover there are a whole number of specific issues presenting their own difficulties: the high costs of installing and maintaining wastewater infrastructure, the monitoring and assessment of priority chemicals in water bodies, the physical modification of water bodies and the restoration of water and wetland habitats.

With the wider environment, perhaps the main challenge is perceived conflict between the protection of the natural environment and economic, social and cultural requirements arising from the needs of industry, agriculture and development. Moreover there is frequently a lack of public awareness and insufficient understanding of legislative procedures as well as which habitats and species are protected and why restrictions apply.

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<sup>56</sup> Challenges in the practical implementation of EU environmental law and how IMPEL could help overcome them.