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ar son na hAeráide & Comhshaoil
Department of Communications,
Climate Action & Environment

**Report of the
Department of Communications, Climate Action and Environment**

To the Oireachtas

Under Section 2(5) of the European Union (Scrutiny) Act, 2002

For the period July to December 2018

Introduction

This Report is in two parts. The first part sets out the principal developments in the policy areas which fell within the responsibility of the Department of Communications, Climate Action and Environment during the Austrian Presidency of the EU from July to December 2018 and the second part provides a summary of draft EU legislative proposals submitted by the Department for review by the Oireachtas during that period.

Part 1: Summary of Developments during the Austrian Presidency of the EU

Energy

Clean Energy for All Europeans Package:

The Austrian Presidency continued the work carried out under the Slovak, Estonian, and Bulgarian Presidencies on the Energy Union and the **Clean Energy for All Europeans Package** (CEP) legislative proposals.

When the Austrian Presidency began four of the CEP files had already reached political agreement and these were finalised and published in H2 2018.

- The **Energy Performance of Buildings Directive** (file held by D/HPLG but dealt with by the Energy Council) had been published in the Official Journal of the European Union on 19 June 2018 and entered into force on 09 July 2018.
- The **Governance of the Energy Union and Climate Action Regulation, the Energy Efficiency Directive**, and the **Renewable Energy Directive** reached political agreement in late June 2018. Following finalisation, these three were published on 11 December 2018 entering into force on 21 December 2018.

This left four of the CEP files to be progressed:

- The **Risk Preparedness in the Electricity Sector Regulation**: Trilogue negotiations began in June 2018 and political agreement was reached at Coreper on 05 December 2018. The European Parliament is expected to vote in the March 2019 plenary session, followed by formal adoption by the Council, and publication in the Official Journal in H1 2019.
- The **ACER Regulation**: Trilogue negotiations began in June 2018 and provisional political agreement was reached on 11 December 2018. It shall now go forward to be endorsed by the co-legislators in the coming months, before being published in the Official Journal and immediately entering into force.

- The **Internal Electricity Market Directive** and the **Internal Electricity Market Regulation**: After intensive negotiations agreement was reached at Trilogue negotiations in December 2018, the sixth Trilogue meeting on these files. Political agreement at Coreper level was reached on 18 January 2019 and endorsement by the co-legislators is expected to follow in the coming months.

Common Rules for Gas Pipelines Entering the EU Internal Market;

The European Commission, under the Estonian Presidency, published the **Common Rules for Gas Pipelines Entering the EU Internal Market** on 08 November 2017. The new Directive would expand the definition of an “*interconnector*” to also include interconnection with Third Countries and it has proven controversial. Recent Presidencies including the Austrian Presidency have failed to make significant progress on this proposal.

Energy Councils:

There was one Energy Council and one Informal Meeting of Energy Ministers under the Austrian Presidency. The Informal Meeting of Energy Ministers was held on 17-18 September 2018 in Linz, Austria. The Energy Council was held on 19 December 2018 in Brussels.

Informal Meeting of Energy Ministers:

The Informal Meeting of Energy Ministers, on 17-18 September 2018, focused on ‘Charge for Change: Innovative Technologies for Energy-Intensive Industries’.

The first day of the Meeting was divided into two Sessions:

- Session I: Market Integration of Volatile Renewable Energy as Key to Energy Transition; and
- Session II: Sustainable Hydrogen Technologies.

Both sessions involved speeches by invited stakeholders, with limited opportunity for input by Member States. Session I also included the launch of the 'Hydrogen Initiative', a declaration published by the Austrian Presidency on the potential importance of Hydrogen for the future of energy systems.

The second day of the Meeting focused on 'System Integration of Renewable Energy and the Hydrogen Initiative' and a discussion on the outstanding issues of the CEP, with a focus on the Internal Energy Market.

On behalf of Ireland and further to a Government Decision on the Hydrogen Initiative Declaration, the Irish Ambassador to Austria signed the Hydrogen Initiative Declaration at the Informal Meeting of the Directors-General of Energy on 15 November 2018 in Vienna.

Energy Council:

The Energy Council, on 19 December 2018, provided the Austrian Presidency the opportunity to present an update on the state of play of seven of the CEP files and on the Connecting Europe Facility Regulation. This was followed by a Commission presentation on 'Clean Planet for All: Strategic long-term vision for a climate neutral economy' and an exchange of views. Under AOB the Presidency and Commission provided information on a number of topics, including the 'Hydrogen Initiative' the 'Gas Directive', the state of marine energy, external energy relations, the election of the International Renewable Energy Agency (IRENA) General Directive, and the work programme of the Romanian Presidency.

There was an informal lunchtime debate on 'The External Dimension of Energy Policy – Priorities with regard to energy security and decarbonisation'.

Directors-General Meetings:

There were two Directors-General of Energy meetings held under the Austrian Presidency, on 05 October 2018 in Brussels, and an 'Informal' meeting on 15 November 2018 in Vienna.

The DG meeting in Brussels had a discussion on the renewables financing mechanism included in the Governance of the Energy Union and Climate Action Regulation. Information was also provided by the Commission and the Presidency on the CEP files state of play, the 2020 energy efficiency state of play, the Dublin Citizen's Forum, and the Hydrogen Initiative.

The 'Informal' DG meeting in Vienna focused on 'Security of Supply in the Era of Decarbonisation' and 'International Cooperation in the Area of Sustainable Energy Technologies'.

Citizens' Energy Forum:

On 20-21 September 2018 the European Commission hosted the 10th Annual Citizens' Energy Forum, known as the 'Dublin Forum', in Dublin Castle.

The European Commission launched the Citizens' Energy Forum in 2008 to explore consumers' perspectives and roles in a competitive, 'smart', energy-efficient, and fair energy retail market. It serves to structure the debate and channel consumers', regulators', and industry's views on the energy market and its future, directly feeding into the work of the Commission in the energy and consumer policy areas.

As the previous nine Citizens' Energy Forums were held in London and in view of the planned exit of the UK from the EU, the European Commission asked the Commission for the Regulation of Utilities to facilitate the hosting of the Citizens' Forum in Dublin going forward. The 2018 Forum held discussions on the 'Role of consumers in the energy transition', 'future-proofing retail energy markets for consumers', 'From framework to action: New models for consumer engagement', 'Energy start-ups: What new value for consumers?', and the Commission's 'New Deal for Consumers' proposal.

National Energy and Climate Plan:

Ireland submitted a draft National Energy and Climate Plan, 2021-2030, to the European Commission on 21 December 2018.

The Governance of the Energy Union and Climate Action Regulation sets out that Member States should develop a National Energy and Climate Plan (NECP), covering ten-year periods. The NECP is a comprehensive integrated plan and report, replacing a lot of planning and reporting obligations from the main pieces of EU legislation across energy, climate, and other Energy Union-related policy areas.

The Plan is required to contain Ireland's 2030 objectives, targets, and contributions and associated policies and measures. A draft NECP had to be submitted to the European Commission by 31 December 2018. The Commission will engage in an iterative process with Member States in H1 2019 and will provide feedback on the Draft NECP by the end of H1. A final NECP must be submitted to the European Commission by 31 December 2019.

Environment

The Austrian Presidency committed to continue the work on advancing the Climate and Transport files while focusing on the circular economy, with a special focus on eco-innovative initiatives.

On 28 November 2018, the Commission presented its Commission Communication on a strategic long-term vision for a prosperous, modern, competitive and climate-neutral economy by 2050. The Communication shows how Europe can lead the way to climate neutrality by investing into realistic technological solutions, empowering citizens, and aligning action in key areas such as industrial policy, finance, or research, while ensuring social fairness for a just transition.

The preparation of this strategy was requested by the European Council in its March 2018 conclusions which invited the Commission to present, within 12 months, "a proposal for a

Strategy for long-term EU greenhouse gas emissions reduction in accordance with the Paris Agreement". The Commission's proposal is expected to be subject to further detailed consideration during 2019, including by the co-legislators, with a view to meeting the Paris Agreement requirement that Parties submit their long-term strategies at the latest by 2020. It will also inform Member States' own work on long-term strategies, as under Article 14 of the new Governance of the Energy Union Regulation, Member States shall prepare and report to the Commission by 1 January 2020 their long-term strategies with a perspective of at least 30 years.

During the Austrian Presidency, environment ministers reached an agreement with the Parliament on the regulation on CO2 standards for cars and vans, and reached a general approach on the proposed regulation on CO2 standards for heavy-duty vehicles. The cars and vans regulation will set new targets for stricter CO2 emission standards, while the HDV regulation will set the first-ever EU targets for CO2 emissions of trucks.

Environment Councils

Environment Council, 9 October 2018, Luxembourg

Environment ministers succeeded in reaching an agreement on the proposed regulation on CO2 standards for cars and vans. They agreed on the Council position on the text and set new targets for stricter CO2 emission standards. By 2030, new cars will emit on average 35% less CO2 compared to the current emission standard limits.

The Council adopted conclusions on climate change as part of the preparations for the UN Convention on Climate Change conference in Katowice in December (COP24). The conclusions aim at giving a strong political signal and narrative on the EU level of ambition in climate action. Ministers underlined that in order to achieve the long-term goals of the Paris Agreement all countries must enhance mitigation action in coherence with, among others, sustainable development and the protection of biodiversity.

The Council held a policy debate on the EU's first ever regulation on CO2 emission standards for heavy-duty vehicles. Ministers discussed the proposed CO2 emissions reduction targets for new trucks, buses and lorries. Ministers had an opportunity to express their views on the Commission proposal and discuss how to make progress towards reaching a common position.

The Environment Council adopted conclusions to the Convention on Biological Diversity (CBD) and regarding preparation for COP 14 to the CBD, preparation for COP-MOP 9 serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety, and preparation for COP-MOP 3 serving as the Meeting of the Parties to the Nagoya Protocol.

The German Delegation updated on the Conclusions and Recommendations adopted under the Berlin Declaration on Nanomaterials as a result of the 12th Nano-Authorities Dialogue (Berlin, 7-8th June 2018).

The Council also heard presentations from the Presidency in relation to new legislative proposals on a directive on single use plastics.

Ministers were presented with updates and reports on the following business:

- 67th Meeting of the International Whaling Commission (IWC 67) (Florianopolis, Brazil, 10-14 September 2018)
- United Nations High-Level Political Forum on Sustainable Development (New York), 9-18 July 2018
- the Berlin Declaration on nanomaterials (German delegation, supported by the French and Luxembourg delegations)
- the outcome of the high-level environment conference "Earth Innovation Forum" (Tallinn, 5 September 2018) and of the second Joint Preparatory Retreat of the Bureaux of the UN Environment Assembly and of the Committee of Permanent Representatives (Tallinn, 6-7 September 2018) (Estonian delegation)

Environment Council, 20 December 2018, Brussels

Environment ministers reached a general approach on the proposed regulation on CO2 standards for heavy-duty vehicles.

Environment ministers took the opportunity to have a first exchange of views on the new long-term climate action strategy which the European Commission presented in November 2018. Two of the eight scenarios proposed by the Commission spell out how the EU could reach net zero emissions by 2050.

The Council reached a partial general approach on the regulation on LIFE which will ensure that the EU's flagship programme for environmental protection, climate action and the conservation of European wildlife species and habitats continues beyond 2020.

In a public session, the Council had the opportunity to hear a presentation by the Presidency on the regulation on CO2 standards for cars and vans.

There was a lunchtime discussion on the future of REACH and EU Chemicals Policy in the context of the ongoing REACH Review and proposals for the future development of EU chemicals policy.

Ministers were presented with the updates and reports from the Presidency and the Commission (and various delegations) on the following business;

- Meeting of COP 24 United Nations Framework Convention on Climate Change Katowice, Poland, 2-14 December 2018. The COP concluded with Parties agreeing virtually all elements of the Paris Agreement Work Programme which will enable the full operationalisation of the Paris Agreement.
- Report on the implementation of the EU Strategy on adaptation to climate change
- Graz Declaration - Starting a new era: Clean, safe and affordable mobility for Europe- Outcome of the Informal Meeting of Environment and Transport Ministers (Graz, Austria, 29-30 October 2018)

- Adoption of measures at EU level to create the conditions for discontinuing the use of the environmentally problematic substances contained in plant protection products (Belgian delegation)
- Intermediary Sessions of the Meetings of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Protocol on Strategic Environmental Assessment (SEA)(Geneva, 5-7 February 2019) (Lithuanian delegation, supported by the Luxembourg delegation)
- The environmental and climate ambition of the future Common Agricultural Policy (CAP).
- The Convention on Biological Diversity (CBD) which took place from 17-29 November 2018 in Sharm El-Sheikh, Egypt. This incorporated three conferences in one - the COP 14 to the CBD, COP-MOP 9 serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety and the COP-MOP 3 serving as the Meeting of the Parties to the Nagoya Protocol.
- European Commission's report on the implementation of the EU strategy on adaptation to climate change published in November.
- Status of Regulation on persistent organic pollutants (POPs) (recast).
- Illegal Wildlife Trade Conference (London, 11-12 October 2018) (UK delegation)
- The future of European Environment Policy – Towards an 8th Environment Action Programme (Presidency)

Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment

This proposal was discussed at the Environment Council meeting in Brussels on 20 December 2018.

The proposed Directive aims to deal with the top ten single use plastics items that cause 70% of marine litter by, inter alia:

- Banning certain plastic products
- Reducing the use of certain plastics and
- Obliging producers of certain plastics to cover the costs of waste management and clean up.

On 18 December 2018 Coreper unanimously endorsed the Single Use Plastics text. The Romanian Presidency will now write to the European Parliament to indicate that an agreement can be concluded on the basis of the negotiated text. It is anticipated that the Romanian Presidency will bring this proposal to a conclusion within the first six months of 2019.

Communications

Telecommunications

The landmark overhaul of the telecommunications regulatory framework, the **Proposal for a European Electronic Communications Code (Recast) – COM (2016) 590**, reached political agreement on 5 June 2018. The Directive revises the current telecommunications regulatory framework by consolidating the existing Framework, Authorisation, Access and Universal Services Directives into a single legislative text and includes a wide range of amendments to both support new policy objectives and make the telecoms rules fit for the digital age. This file was considered in parallel with the **Proposal for a Regulation establishing the Body of European Regulators (BEREC) – COM (2016) 591**. Both files were published in the Official Journal on 11 December 2018. Work is currently underway to transpose the European Electronic Communications Code, which is required to be fully transposed by December 2020. The BEREC Regulation is directly effective and came into force three days after publication in the Official Journal.

The Austrian Presidency continued careful examination of the **Proposal for a Regulation on Privacy and Electronic Communications (ePrivacy) - COM (2017) 010**. The proposed Regulation is designed to replace the existing ePrivacy Directive 2002/58/EC and to supplement the General Data Protection Regulation (GDPR) which came into effect on 25

May. It has proved to be an extremely complex file, a fact which is reflected in the time it has taken to negotiate thus far. A new Progress Report produced by the Presidency was discussed at the Telecommunications Council on 4 December to try to and tease out any remaining issues, in the hope of reaching a General Approach by the end of the Romanian Presidency (January – June 2019).

The Council of the European Union made rapid progress on the **Proposal for a Regulation Establishing the Digital Europe Programme for the period 2021-2027 COM (2018) 434**. The File was adopted by the Commission in June 2018 and a partial General Approach was reached at the Telecommunications Council on 4th December 2018. This file is currently under discussion at Trilogue stage

The File forms part of the new package of measures proposed under the EU Budget negotiations as part of the Multiannual Financial Framework (MFF) 2021-2027. The Digital Europe Programme proposes €9.2 billion to enhance European competitiveness in five overlapping areas: cybersecurity, artificial intelligence, interoperability of services, high performance computing and advanced digital skills. Ireland hopes that this file will continue to be ambitious and offer real added value to the European digital ecosystem. As the Digital Europe Programme is one of the MFF files, its budget is not negotiated in the telecommunications working party but as part of the horizontal budget MFF negotiations, led by Department of Finance.

The Department is also contributing to negotiations on the new Connecting Europe Facility Regulation which is being led by the Department of Transport.

The .eu top level domain name Regulation was also discussed during the Austrian Presidency and it successfully negotiated an agreement on the file in December 2018. The **.eu** is the **EU's top-level internet domain name** under which any person, organisation or business based in the EU – and soon any European citizen living outside the EU as well – can register their own domain name. .eu is an essential building block for European online identity. Under the new revised rules, the governance structures are modernised, making it more transparent by setting up a multi-stakeholder group to advise the Commission on the

implementation of the rules. Its members will include representatives from the private sector, civil society and international organisations, among others.

With nearly 4 million registrations, the .eu top-level domain is one of the largest international country code top-level domains (ccTLDs). It contributes to a safe and secure online environment and aims to ensure a pan-European presence in the global digital marketplace.

December 2018 marked the beginning of the final period of the Juncker Commission, with European Elections due to be held in May 2019. This has meant collective focus has been put on completing outstanding Digital Single Market files, such as the ePrivacy Regulation. Increasingly, however, consideration has been given to what the future vision and direction of the Digital Single Market may be under the next Commission. To this end, the Romanian Presidency will be hosting an Informal Telecommunications Council in March 2019 to discuss Digital Europe Post 2020.

Broadcasting and Media

1. Audiovisual Media Services Directive (AVMSD):

The AVMSD was adopted in 2010. Its primary purpose is to ensure the effective operation of the internal market for television broadcasting services throughout the EU. This includes traditional television services and on-demand audiovisual services, e.g. Netflix.

The Directive does not currently apply to audiovisual content which is not TV-like, i.e. where a provider does not exercise editorial control.

On 25 May 2016, the European Commission published its proposal to revise the Directive. One aspect of this revision was the limited and targeted inclusion of Video-Sharing Platform Services, which host user-generated content and do not editorially control that content, in the scope of the Directive.

Agreement was reached in trilogue on this file in June 2018 and the final text of the revised Directive was adopted by both the European Parliament and the Council. The revised Directive was published in the Official Journal of the European Union on 29 November 2018 and entered into force on 19 December 2018

Ireland has 21 months from the entry into force of the revised Directive to transpose its provisions into Irish law.

2. Proposed Regulation Concerning Copyright and Certain Online Transmissions and Retransmissions:

On 14 September 2016 the European Commission published a Communication entitled "*Towards a modern, more European copyright framework*". This Communication was accompanied by a number of proposals, including a regulation concerning copyright and certain online transmissions and retransmissions.

This legislative file remained in the trilogue process at the end of the Austrian Presidency.

3. Code of Practice on Online Disinformation

The European Commission announced in a Communication in April 2018 a series of measures it would progress to tackle online disinformation. This included the development of a common Code of Practice for disinformation as a self-regulation tool developed and followed by online platforms, to ensure transparency and accountability of content, and protect users from disinformation.

The Code of Practice was finalised in September 2018 and an interim report published in December 2018. The Code is being monitored on an ongoing basis by the Commission in advance of the European elections in 2019.

The Code forms part of the European Commission's Action Plan on Disinformation.

Postal

Regulation 2018/644, in force since May 2018, *lays* down new obligations and duties, including for cross-border parcel delivery service providers, national regulatory authorities and Member States. The Regulation will enable consumers and businesses to compare delivery prices on a dedicated website, where the Commission will publish public tariffs of cross-border delivery service providers. The Regulation provides greater powers for national regulatory authorities to monitor cross border tariffs and assess those that they consider to be unreasonably high.

To give full effect to Regulation 2018/644, the Department of Communications, Climate Action and Environment is working on ensuring that the national regulator, the Commission for Communications Regulation (ComReg), has the necessary legal powers to enable them to request the information required to ensure compliance with Regulation 2018/644.

Part 2: Update on EU Legislative Proposals for which Information Notes were submitted to the Oireachtas Sub-Committee on European Affairs from July to December 2018

Commission Proposal Number	Proposal/Measure	Date Reviewed Decision of the Sub-Committee	Update
COM(2018) 630	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Cybersecurity Industrial, Technology and Research Competence Centre and the Network of National Coordination Centres A contribution from the European Commission to the Leaders' meeting in Salzburg on 19-20 September 2018.	06/11/2018	No Further Scrutiny
COM(2018) 657	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union at the second meeting of the Conference of the Parties to the Minamata Convention on Mercury with	06/11/2018	No Further Scrutiny

	<p>regard to the adoption of guidelines on the environmentally sound interim storage of mercury, other than waste mercury, referred to in its Article 10, paragraphs 2 and 3.</p>		
COM(2018) 744	<p>Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on adapting Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX of the European Parliament and of the Council [Governance of the Energy Union], by reason of the withdrawal of the United Kingdom from the European Union.</p>	06/12/2018	No Further Scrutiny
COM(2018) 753	<p>Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union at the Conference of the Parties to the Rotterdam Convention regarding compliance</p>	18/12/2018	No Further Scrutiny

	procedures.		
COM(2018) 792	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Ministerial Council of the Energy Community on the extension of the term of office of the Director of the Energy Community Secretariat.	18/12/2018	No Further Scrutiny