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BRIEFING

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**ON THE RESULTS OF THE WORKSHOP
OF 8 NOVEMBER 2001
ON 'EFFLUENT CHARGING SYSTEMS
IN THE EU MEMBER STATES'**

*The opinions expressed are those of the author
and do not necessarily reflect the position of the European Parliament.*

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Summary

The Directorate-General for Research of the European Parliament (EP) launched — on request of the Committee of the Environment, Public Health and Consumer Protection — an external study on 'Effluent charging systems in the EU Member States'. This study was prepared by Ecologic — the non-profit-making Institute for International and European Environmental Policy, Berlin (D). The study focuses on economic instruments for regulating direct discharges of effluents into natural waters.

To discuss the results of the study 'Effluent charging systems in the EU Member States' and to exchange ideas of further research needs in the field of water economics, the European Parliament invited representatives from the Member States as well as accession countries to come together for a workshop in Brussels on 8 November 2001. About 30 participants including Members of the European Parliament, the European Commission, representatives and experts from national governments, research institutes and industry gathered for this workshop.

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I. EFFLUENT CHARGING SYSTEMS IN THE EU MEMBER STATES: BACKGROUND AND TRENDS IN EU MEMBER STATES AND CANDIDATE COUNTRIES AND SUMMARY OF THE WORKSHOP

PRESENTATION FROM W. HANSEN, R. A. KRAEMER AND E. INTERWIES, ECOLOGIC (D)

Background

The Directorate-General for Research of the European Parliament (EP) launched — on request of the Committee of the Environment, Public Health and Consumer Protection — an external study on 'Effluent charging systems in the EU Member States' (Environment Series No 104). This study was prepared by Ecologic — the not-for-profit Institute for International and European Environmental Policy, Berlin (D). The study focuses on economic instruments for regulating direct discharges of effluents into natural waters.

The following underlying questions are considered in the study:

Do effluent charges distort competition in the European Union?

Do effluent charges influence the location or relocation of industries?

Is administrative and/or penal (criminal) law applied in case of water pollution incidents?

Taxes and charges concerning other aspects of water management, such as taxes or charges for the abstraction of water from the environment, are beyond the scope of this study.

Economic instruments and principles have become a prominent feature in environmental policy and they are increasingly being incorporated into the environmental law of the EU Member States, most importantly with the recent adoption of the water framework directive (WFD) (Directive 2000/60/EC of 23 October 2000 on establishing a framework for Community action in the field of water policy (OJ L 327, 22 12 2000, p. 1)). The WFD gives prominence to the principle of cost-recovery for water services, in accordance with the polluter-pays-principle. The main objective is to ensure that environmental and resource costs are no longer borne by society in general, but are instead allocated to water users, thus becoming an internal part of economic decision-making (a process known as 'internalisation'). In addition, Member States are required to ensure by 2010 that water-pricing policies provide adequate incentives for the efficient use of water resources. Incentives are meant to provide water users with correct and adequate signals on the scarcity of water resources, and on the sensitivity and vulnerability of water bodies or ecosystems that depend on water.

To discuss the results of the study 'Effluent charging systems in the EU Member States' and to exchange ideas of further research needs in the field of water economics, the European Parliament invited representatives from the Member States as well as accession countries to come together for a workshop in Brussels on 8 November 2001. About 30 participants including Members of the European Parliament, the European Commission, representatives and experts from national governments, research institutes and

industry gathered for this workshop.

Workshop presentations and discussions

In her opening address Mrs Ursula Schleicher, Member of the European Parliament, welcomed the introduction of economic principles into European water policy by the water framework directive. She underlined the importance of economic principles and instruments to achieve a sustainable management of water. As little information and transparency exists on the effects and the effectiveness of economic instruments in the field of water management, the study is the first important piece of work in that field. The European Parliament is planning a political initiative in this policy area.

In their presentation, the authors of the study, Mrs Wenke Hansen and Mr R. Andreas Kraemer, Ecologic, summarised the main results of the study. In seven Member States of the European Union effluent charges are levied on the direct discharge of effluents into natural waters. In the other eight countries no such instrument exists. The effluent charging systems in place differ strongly with respect to their functions, calculation methods, pollution parameters, level of charges, exemptions, and the use of revenue. In Denmark and Germany the main purpose to introduce an effluent charge (or tax) is to set incentives for water pollution control, while the main function of the effluent charges in the Netherlands, France, Spain and Belgium is to collect revenue for financing water pollution control measures. In the United Kingdom the effluent charge is imposed to cover the costs for administrating effluent permits.

The incentives the effluent charging systems set differ according to their design and level. Using example calculations, it was found that the German system sets highest incentives to reduce pollution. The systems in Belgium, Denmark and the Netherlands also set incentives for pollution reduction, while the effluent charges in the UK do not vary according to differing pollution levels. The effluent charges in Germany and in the Netherlands have resulted in major improvements of effluent treatment, in Denmark only with respect to nitrogen and phosphorus, since the rate for biological parameters is too low.

No evidence was found regarding distortion of competition or relocation of industries resulting from the effluent charge. This appears to be because the effluent charges amounts to less than 1 % of the total production costs. Effluent charges generate positive effects with regards to capacity building, information about water pollution, and the innovation and diffusion of technology for water pollution control. Effluent charges have resulted in the investment in effluent treatment and adoption of clean technology, and a reduction of water consumption and emission of pollution loads. The effluent charge is an effective instrument for water pollution control.

The position of the European Union was presented by Mr Pierre Strosser, the Environment DG, European Commission. Within the context of a wider range of tools, economic instruments play an important role in water pollution control. The principle of cost-recovery and the incentive functions are to be introduced into European water policy according to the WFD. The idea is to achieve an adequate recovery of costs based on social aspects and to attain the best results for the environment at lowest costs. In the study 'Effluent charging systems in the EU Member States' it was shown that the effluent charge could serve as an effective instrument to achieve the reduction of water pollution from point sources. Nevertheless there is little evidence or knowledge about the effectiveness of other economic instruments in water pollution control and on the appraisal of environmental effects.

Discussions and trends in selected EU Member States and candidate countries

In Hungary, a well-defined effluent charging system (called fines) theoretically provides the regulatory framework for an effective instrument for water pollution control. In practice, internal opposition against effluent charges and shortcomings prohibit its effective implementation. Examples of limitations and reasons for its low implementation results are: the 'fines' (effluent charges) are too low to set adequate incentives, weak enforcement, low willingness to pay, industrial development has higher priority than environmental aspects, missing principle of cost-recovery. Hungary would welcome a European initiative in this policy area, according to Mr Péter Kovács, Hungarian Ministry of the Environment.

Since the 1990s, economic instruments have played an increasing role in Lithuanian environmental policy, as Mrs Virginija Mikelinskaite, Lithuanian Ministry of the Environment, pointed out. In April 1991, an effluent charging system was introduced among a number of other charges on environmental pollution. Effluent charges are being paid by enterprises and water treatment plants which discharge pollutants into the surface water. Of the collected revenue, 70 % are directed to municipal funds, 20 % to the Lithuanian Environmental Protection Investment Fund, and 10 % to the State budget. In 2000, a total of EUR 5 million were collected.

In the Czech Republic the fight against water pollution has in recent years become one of the highest priorities. An effluent charge for discharging waste waters into surface waters that includes one component for the emitted volume and another one for pollution parameters is in place. Up to 80 % of the charges can be offset against expenditures on pollution abatement and the revenue feeds into the State Environment Fund. Additionally a charge for the discharge of waste water into groundwater has been introduced in 2002 with the adoption of the new Water Law. The policy is not to subsidise the water sector as prices should reflect costs, so that the right incentives can be set. Concerning competition, the Czech Republic pointed out that the unequal treatment of direct and indirect emitters could have an influence on competition. Speaker: Mr Fedor Bruoth, Mission of the Czech Republic to the EC (CZ).

Mr Konrad Berendes, German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, and Mr Gustl Geisenhofer, Bavarian Ministry for Land Development and the Environment, pointed out that the effluent charge in Germany is an important and very effective instrument for upgrading the technical and environmental standards of existing companies. Due to the introduction of the effluent charging system in the 1970s, large volumes of investment into clean technologies was initiated. The charge is an effective instrument for water pollution control and the earmarking of the revenue is important for its positive results. In Germany the effluent charge amounts to about 3 to 15 % of the total costs for waste-water disposal. Incentives are mainly set for direct emitters, as for indirect emitters other rules exist. The German Federal Government strongly supports the idea of a harmonising effluent charging system in Europe, as this instrument is very useful for achieving environmental goals within the Community.

Mrs Michaela Schmitz, German Water and Gas Association, expressed her disappointment about regulations in the WFD concerning cost recovery because they are non-binding. Regarding the question of competitiveness and dislocation of industries, other costs, such as costs for waste-water treatment, energy or personnel, play a far more important role than the effluent charge. The quality of water services and the level of environmental protection differs strongly across Europe. There is hence a need to analyse these other costs together with the level of water services and water pollution control in order to be able to judge

the competitiveness. In Germany the instrument has served its purpose and is currently under discussion to be changed or even abolished. Mrs Schmitz therefore opposes a European initiative for introducing effluent charging systems. More important than harmonised effluent charging systems, European emission standards are needed.

Between 1974 and 1997, the organic pollution from industry has been reduced by 60 % partly as result of the effluent charging system in France. Through the new French Water Law that is currently under debate, new taxes for diffuse pollution such as nitrogen as well as the heating of water are being introduced. Mr Frédéric Boudier, French Ministry for the Management of Land Use Planning and the Environment, estimates the costs for effluent charges to be 1 % of the total costs of industries. Mr Bernard Kaczmarek, Agences de l'eau, Brussels, pointed out the importance of a common European water and economics glossary and referred to the transparency and participation prescribed by the WFD by 2004.

The function of the effluent charging system in the UK is to recover the costs for administrating discharge permits, according to Mr Chris Chubb, Environment Agency for England and Wales, UK. The system is not intended to set incentives to reduce water pollution. The effluent charge amounts to less than 2 % of the costs of the water companies. In order to reduce administrative costs for permits that are covered by the charges, there is a move towards self-monitoring in the United Kingdom. In Northern Ireland, an 'effluent charging system' has been introduced on 29 October 2001, as Mr Clifford Henry, Department of the Environment for Northern Ireland, UK reported. The Northern Irish effluent charging system resembles the one in England and Wales. A common European framework for charging systems would support the WFD intention and facilitate Member State and sector comparisons that will gain importance in the process of European harmonisation.

Conclusions and further steps

1. Initiative on effluent charges

With the adoption of the water framework directive (Article 9), economic instruments and principles gain importance in European water management. In this context the usefulness and effectiveness of different economic instruments should be evaluated. The study showed that effluent charges could serve as an effective instrument for water pollution control. Effects do strongly depend on the design of the charging system and its enforcement. In most countries present at the workshop a European policy initiative regarding the introduction of an effluent charging system would be welcomed. This could contribute to a European harmonisation in attaining a high level of water pollution control. However, the introduction of environmental taxes, charges or fees is a difficult political task, because there is generally strong opposition against levies that burden citizens or industry.

Therefore, a strategically well-planned step-by-step approach should be taken to introduce and harmonise a European effluent charging system. This initiative should be linked with the ongoing work of the Economics working group (Wateco) of the common implementation of the water framework directive.

To plan an initiative in this field, further workshops to exchange approaches and experiences on certain topics, such as range and type of parameters, calculation methods, measurements, methods as well as pros and cons of the different institutional settings between the Member States are essential.

Further investigation and comparisons of:

- administrative practice;
- good (or best) practice;
- 'minimum requirements' for an effluent charging system.

2. Water glossary

The use of terms differs widely among Europe. It was discussed during the workshop that a European glossary of 'water terms' including economic terms (taxes, charges, levies, sewerage, waste water), legal terms (penalty etc.) is needed in order to facilitate discussions and comparisons.

3. Studies on costs for industrial waste-water treatment (including waste-water charges)

The discussion supported the findings of the study that effluent charging systems do not cause distortion of competition or the dislocation of industries because of their low level (less than 1 % of total costs). Other costs and charges as well as institutional and legal frameworks are far more influential and the importance of waste-water charges and sewerage charges was discussed. The costs for industrial waste-water disposal either in on-site facilities or via the municipal sewerage system (charges) is a more important cost factor for companies than the effluent charge. In relation to the overall costs (operation and production) the waste-water disposal amounts for about 10 %. There are no concise European comparisons or overviews of the costs or charges for industrial waste-water disposal.

Therefore studies on costs for waste-water treatment including waste-water charges are needed in order to tackle the factors that might have an influence on competition and might influence the location or dislocation of industries. In these studies the regulatory and legal framework of effluent treatment as well as the actual level of effluent treatment and standard of environmental protection in the different Member States of the EU should also be considered.

The idea is to conduct separate case studies for some important industrial sectors (e.g. textile industry, oil industry, metal industry and others to be selected). The different case studies will only draw conclusions for the specific sector analysed. Within each of these case studies calculation examples for waste-water charges in approximately three different municipalities/cities in each Member State (and some selected accession countries) should be foreseen. This is important because the calculation of waste-water charges generally varies from one municipality to the other. The results of these 'sectorial' case studies should be drawn together in one report from which broader experiences and conclusions can be drawn. This report is intended to build a basis for policy initiatives.

4. Common framework for regulations concerning penalties

Concerning the application of administrative and penal (criminal) law in the case of water pollution incidents, the study summarised broadly institutional similarities and differences. The legal terminology and the procedures for the prosecution of environmental offences vary among Member States. The audience of the workshop was not in favour of harmonising approaches in this policy area. Nevertheless, current initiatives on the harmonisation of the legal framework concerning the protection of the environment through criminal law show that the process has already proceeded.

In order to influence the policy process in this field, further investigation is needed on the legal framework for the prosecution of environmental offences and its actual application in the Member States.

II. STATEMENTS CONCERNING THE ACTUAL SITUATION AND TRENDS IN EU MEMBER STATES AND CANDIDATE COUNTRIES

STATEMENT FROM F. BRUOTH, MISSION OF THE CZECH REPUBLIC TO THE EC (CZ)

Payments for water pollution in the Czech Republic

A fundamental regulation for water protection in the Czech Republic consists in the Water Act, i.e. Act No 138/1973 Coll., which will be replaced as of 1 January 2002 by new Act No 254/2001 Coll.

The new Water Act provides for the following payments:

- payment for abstracted volume of groundwater (Section 88);
- fees for discharging waste water into surface waters (Sections 89–99), which include:
 - a fee for pollution of discharged waste waters,
 - a fee for the volume of discharged waste waters;
- a fee for permitted discharging of waste waters into groundwater (Section 100);
- payment to compensate costs of administration of watercourses and administration of river basins (Section 101).

Of the above, the two following instruments aim to protect water against pollution:

- (1) fees for discharging waste water into surface waters;
- (2) a fee for permitted discharging of waste waters into groundwater.

(1)

Fees for discharging waste water into surface waters include two separate fees — a fee for pollution of discharged waste water and a fee for the volume of discharged waste water. These fees were transferred to the new Water Act from the former regulation (Act No 58/1998 Coll., on payments for discharging waste water into surface waters) without any fundamental changes.

The obliged person in relation to both payments consists generally in a legal or natural person who discharges waste water into surface waters (hereinafter the 'polluter'). Fees are paid for individual pollution sources.

The polluter is obliged to pay the fee for pollution of discharged waste water if the waste water discharged thereby exceeds for the relevant indicator, both mass and concentration limits for payment; pollution indicators, limits for payment and the rate of the fee are specified in the annex to the Act.

The polluter is obliged to pay the fee for the volume of discharged waste water if the volume of waste water discharged thereby exceeds 30 000 m³ per calendar year. The rate of the fee equals CZK 0.1 per m³.

Where the polluter is undertaking construction of a waste-water treatment plant or some other installation of an investment nature, which will lead to a decrease in pollution of discharged waste waters, (s)he may apply to defer payment of up to 80 % of the amount of fees for the relevant pollution source. If the polluter meets the deadline for construction and the pollution of waste waters discharged from the given source does not exceed the set limit, (s)he shall be relieved from the obligation to pay the fees, the payment of which was deferred.

Table 1 — Total amount of basic fees for discharge of waste into surface waters reduced by charge deferrals according to watercourses, 1994–99

	Water course	1994	1995	1996	1997	1998	1999
Total charges for pollution (1 000 CZK)	Vltava	188 058	131 954	143 867	109 748	80 717	.
	Ohře	123 997	119 504	91 975	81 756	80 004	.
	Labe	298 510	228 218	229 711	187 267	202 034	.
	Morava	191 005	135 399	120 690	116 853	104 754	.
	Odra	83 425	58 569	60 089	53 585	50 145	.
	Total	884 995	673 644	646 332	549 209	517 654	462 948 ⁽¹⁾
of which: water mains and sewers (1 000 CZK)	Vltava	155 285	103 922	115 806	80 291	57 832	.
	Ohře	58 531	51 406	41 881	37 664	35 521	.
	Labe	165 147	106 304	93 066	86 971	77 142	.
	Morava	146 411	102 831	88 513	84 577	76 373	.
	Odra	44 919	37 521	31 720	32 519	29 245	.
	Total	570 293	401 984	370 986	322 022	276 113	.

⁽¹⁾ Monitoring by watershed was not carried out after 1999.

Source: Statistical environmental yearbook of the Czech Republic, Table d3.1.8, The Ministry of the Environment of the Czech Republic.

The fees are to be paid by means of advance payments during a calendar year and shall be settled on the basis of actual data at the beginning of the following year. The water-law authority shall lay down the amount of fees on the basis of data provided by the polluter. Collection and enforcement of the fees is carried out by the locally competent financial authorities based on the seat of the polluter. The fees constitute income for the State Environmental Fund.

(2)

The fee for permitted discharging of waste water into groundwater is a new fee. The obligation lies with a person who owns a permit for discharging waste water into groundwater. The rate of the fee equals CZK 3 500 per calendar year. Where waste water from dwellings is treated by a local waste-water treatment plant at the required level, the fee shall not be paid. The administration of the fee is carried out by the municipality, in whose territory the discharge occurs, and the fee therefore constitutes income.

STATEMENT FROM C. J. CHUBB AND J. FISHER, ENVIRONMENT AGENCY FOR ENGLAND AND WALES (UK)

The results and presentation of the study of effluent charging systems in the EU Member States, undertaken by Ecologic, were extremely interesting, highlighting the differences of approach between Member States, and helping to identify some of the challenges that will have to be addressed in implementing the water framework directive. We have identified some major points of substance and detail in the Ecologic report relating to the position in England and Wales, that need highlighting and clarification, particularly in respect of the control and charging for discharges to sewer and their subsequent treatment at an urban waste-water treatment works. We summarise these later in our statement.

The synopses of the position in each Member State and candidate country represented were illuminating, reflecting the differing legal and institutional starting points, and organisational accountabilities and investment drivers, for effluent charging.

The views of the workshop were that legal, institutional and charging mechanisms vary widely between Member States and candidate countries, but they do not distort competition, and do not need harmonisation. The workshop views were that harmonised EU charges would not be workable, or appropriate. However it was felt that clear explicit information on the position in each country was essential. The worthy efforts of Ecologic had pointed out the current difficulties of comparison between Member States.

It appears that in order to achieve full financial cost recovery under the water framework directive, most of the south and east European countries will have a lot to do and will need considerable time especially with the major investments needed.

There were strong calls (from everyone) for more careful research to set out clearly, explicitly and transparently the (extent of) the differences in costs and their financial cost recovery in Member States and to explain the reasons for differences in cost recovery. The Agences de Bassins in France is doing a major study on this.

In this it will be important to cost properly the capital assets (on basis of their replacement at modern equivalent asset value) so as to avoid surprise surges in charges when expensive upgrades in the capital assets are needed.

In commenting on the Ecologic presentation on their report, the Environment Agency stressed the dangers of potential misunderstanding and misinterpretation of Ecologic's figures on the difference in charges in different Member States since the institutional structures, and accordingly the charging systems, are fundamentally different and incomparable. These differences are most significant for the UK since the privatised water service utility companies (WSPLCs) recover the financial operating and investment costs of waste-water treatment in their charges, which are regulated by the Office of Water Services (OFWAT). The Environment Agency charging scheme for licences for discharges and for abstraction demonstrate to an acceptable level of accuracy, that the allocation of costs between categories of charge tariffs reflects the

agency's regulatory activity and workload. We would also refer to two OFWAT reports: 'Financial performance and expenditure of the water companies in England and Wales 2000–01' and 'Tariff structure and charges 2001–02', both of which are available on the OFWAT web site (www.ofwat.gov.uk).

Ecologic's report (Table 15, p. 79) highlights the UK as an anomaly with low charges since we only levy administrative cost recovery charges. However, this ignores the WSPLC's charges for indirect discharges to sewage treatment works (STW) that are part of the public bodies' charges for direct discharges in other countries. Our guess is that if you add in these charges, then the total effluent charges in the UK would be broadly equivalent to those in Germany, Denmark and the Netherlands and probably higher than in other EU countries. But we recognise how difficult it is to estimate this. Ecologic report (Table 18, p. 84) estimates from the German Association of the Textile Industry that the water and effluent treatment costs in the textile industry in the UK are about 4.5 % of turnover, which is similar to the costs in France (5.3 %) and Netherlands (4 %) and roughly double the costs in other countries (about 2–3 % in Germany, Belgium and Ireland).

STATEMENT FROM P. KOVÁCS, HUNGARIAN MINISTRY OF THE ENVIRONMENT (HU)

Effluent charging system in Hungary

At present the effluent charging and enforcement system in Hungary is controlled by two major governmental decrees in Hungary: 3/1984(II.7.) OVH (National Water Authority) Decree on Water Pollution Fines (WPF), and the 4/1984(II.7.) OVH Decree on Public Sewerage Fines (PSF). Those regulations were modified in 1993 by 33/1993 KTM (Ministry for the Environment and Regional Policy) Decree and 34/1993 KTM Decree, but only the fine units were doubled by this modification.

Subsequently the main features of the old system are outlined shortly, compared to the new EU harmonised system, highlighting the crucial difficulties foreseen, as well.

Present legislation

Earlier water pollution control activities have been supervised by the National Water Authority, considering water pollution control as part of water management. Since the Ministry for the Environment (ME) was established in 1992, a rather complicated situation has been created in the field of water pollution control.

The Ministry for the Environment is responsible for the quality of surface and subsurface water resources, as well as for direct waste-water discharges into natural water resources.

Meanwhile the Ministry of Transport and Water Management (MTWM) is responsible for the water quantity and supervises the sewage systems and public waste-water treatment plants, including waste water discharges into public sewers.

In reality, the situation is even more complicated: the municipal sewerage networks and treatment plants are usually owned by the local municipalities, and they are also authorised to collect sewerage fees and fines.

The MTWM through its district water authorities, in cooperation with the regional environmental authorities provides licences for all kind of water management activity by water permits, with minor exception where the local municipalities are entitled to do it.

Discharges are also regulated — besides the water permit — in special cases by the environmental inspectorates (IPPC, EIA, etc.) with the collaboration of the water authorities.

The actual limit values for the discharge are regulated in the water and in environmental permits for each discharger.

All industrial plants and waste-water treatment plants (WWTPs) need to have permits issued by the local water and environmental authorities. The conditions for permits are based on general emission limit values, independent from the technology used, depending only on the localisation of the receiving water body. With

good cause, the local environmental authority has a right to apply more stringent or lighter limits for specific parameters by individual evaluation for direct discharges. The sectorial limit values do not exist in the present system.

Direct emissions into natural water resources

In principle the WPF decree provides effective water pollution control in Hungary by means of determining various pollution threshold limits and the same fine units, taking into account several considerations, as outlined below.

Recipient waters of the country are categorised into six protection zones, depending on the location and the use of the water body (protected zones, water abstraction areas, aquifers and recreational areas, industrial areas, irrigation resources, etc.).

For each category the individual limit values of water polluting substances and relating unit fines are listed by the central authorities in the appendix of the decree.

In the case of exceeding limit values, polluters must pay a fine, calculated on the basis of the annually discharged amount of pollutants over the threshold limits. The unit fines are given for the main parameters in HUF/kg, for two groups of pollutants:

- (1) conventional pollutants (COD, pH, suspended solids, phosphorus, nitrate, Coliform number, etc.)
- (2) toxic materials (cyanides, chromium, arsenic, nickel, toxicity, etc.). The calculation is based on the pre-determined measurement programme of the environmental authorities, or on the self-control of the discharger.

The fines are calculated and imposed by the local environmental inspectorates annually, using the general limit values and the following modifying factors:

dilution factor (embankment or current line discharge, critical flow in the river, etc.);
area factor depending on the six categories mentioned earlier;
other water management factor (environmental factors, danger to human health, utilisation of the recipient, efforts of the polluter to diminish pollution, etc.).

and the progressive factor in the case of continuous fining.

The revenue of the charges is not really significant. The collected fine is shared between the local municipalities (30 %) and the Environmental Fund (70 %). The revenues should be earmarked for environmental purposes only.

The fines for the WWTPs and the agricultural enterprises are assessed in the same way as direct discharges from industry.

The environmental inspectorate is responsible for the effluent monitoring and inspection, but many industrial installations and WWTPs monitor their effluents themselves. In these cases the inspectorate validates and

controls the quality of the data collected by the operators.

The quality of the receiving water bodies is monitored by the same environmental inspectorates, through the extended monitoring network.

Water pollution cases, including accidental pollution as well, are investigated by the inspectorates. They have to provide the necessary evidence (laboratory analyse) to impose the water pollution fine. In extreme cases the offence could go to court. The liability lies with the company. Theoretically if the pollution is not stopped, the licence for an activity of the company can be withdrawn.

In theory, this system of effluent charges could have provided effective water pollution control with regard to the overall social and economic conditions of the previous decades. In practice, however, the original intention could not be realised, due to the following causes:

- the fines imposed on polluters had little effect in mitigating pollution;
- the enforcement of the current legislation was weak;
- the willingness to pay was low (long legal procedure in the case of appealing);
- other governmental considerations, e.g. industrial development, employment consideration, etc. enjoyed higher preference than environmental protection;
- the relevant authorities (water, environment, and health) did not have appropriate capacity for adequate checking, and also activities of the various authorities were not harmonised, etc.;
- the cost recovery principle was missing.

Indirect emissions via municipal or industrial sewers/treatment plants

The old PSF decree has the same structure than that of the WPF, but the limit values are less stringent. One single list of limit values is applied for the whole territory of the country. In the present system, central government determines the unit charges and threshold concentrations for waste water discharged into public sewers.

The sewage fine is calculated and collected by the local municipalities, based on the measurements of the waste-water utility company, or on the self-control of the discharger, with the collaboration of the water and environmental authorities. The collected sewerage fine is given to the operator of the sewage system as a 'compensation' for the extreme pollution of the sewage system.

The monitoring and inspection is carried out by the operator of the municipal treatment plant or based on a self-control mechanism.

The new regulation is the 203/2001 (X.26.) governmental decree on the protection of surface waters and 204/2001 (X.26.) governmental decree on sewerage fine.

The new legislation still retains this duplicity in legal administration, although the relevant EU directives, especially the directive on hazardous substances (76/464/EEC) and the water framework directive, leave less room for distinguishing clearly between direct/indirect emissions from the authorisation point of view.

A comprehensive regulation on the protection of surface waters has been approved by the government recently. The new decree is in full transposition of the relevant EU directives, and will take effect from January 2003.

One of the major differences from the old regulation is, that following a transition period the new system will not allow further pollution, rather stringent measures other than fining will be applied: ceasing or stopping polluting activities.

The fine unit values were increased significantly (70 times), but the imposed fine could be reduced during the given transitional period by 95 %, if the polluter intended to elaborate and implement a comprehensive pollution reduction or abatement programme.

Another important feature is the introduction of technological limit values — based on best available techniques (BATs) — which aim to encourage industries to apply BATs of pollution abatement.

There is also the system of the general emission limit value, in a renewed form (only three classes), besides the new technological limit values.

Also, the new regulation offers more freedom for the local environmental authorities to seek the most reasonable compromises between the interests of company development and environmental issues.

The new decree on sewerage fines retains the original structure. Apart from the increased unit fines, the most important change is in the licensing procedure and the collection of the sewerage fine: instead of the local municipality, basically the water authority is responsible for issuing the water permits for all water users (including industrial units, public sewerage and municipal waste-water treatment facilities) and for the collection of the sewerage fine. The fine is collected from the operator of the treatment facility.

The involvement of the environmental authorities is also enhanced in the licensing and checking procedure, especially for industrial waste waters containing hazardous (priority) substances.

As was mentioned earlier, more room is left for the service providers (treatment plant and sewerage operators), polluters and local authorities to find a reasonable compromise between the economic interests of polluting companies and the environmental targets. For industrial areas it means that the municipal treatment plant may be considered as a post-treatment facility of the polluting company, therefore the technological limit values should be evaluated only after the plant, not at the discharge point. This can only be applied for those pollutants, where the removal does not fall outside the design capability of the plant.

In the case of the pollutant which can't be removed or decreased by the treatment facility (e.g. priority substance) the industrial discharge is counted as a direct discharge into the surface recipient. The regulation is based on the surface-water protection regulation. To avoid the double fine the operator of the plant can apply for a reduction from their actual fine, depending on the amount of fine already paid by the industrial units. In this case, the application of the pre-treatment facility is necessary to avoid a fine!

In the new system, enhanced importance is given to the self-control procedures, because the capacity of the authorities to control is far below what is needed. The role of the authorities is restricted to validating the self-control data. Basic data provision for the EU and for the authorities will be provided by the polluting

companies themselves.

Increased involvement of the waste-water service providers' laboratories is also expected, since it is in their primary interest to control discharges to the sewerage network. The municipal treatment plants, which will be strictly controlled by the environmental authority for their effluent water, must be sure that no uncontrolled waste water is discharged into the sewers. This control is also important in protecting the pipelines, facilities and treatment processes of the plant.

Other questions

Since the overall new charging system is based on the full transposition of the EU directives, competition may be distorted during the transition period. Several deadlines are established for introducing the various regulations (2007 for IPPC, 2008, 2010 or 2015 for municipal waste-water treatment, etc.). These transition periods could not be avoided, in order to provide an adequate time frame for technical preparations, projections and implementation, and to secure the necessary financial sources.

The new legislation will result in many questions especially from the industrial side.

The unequal treatment and the different charge units of the direct and indirect emission regulation should distort competition. In some industrial areas, entrepreneurs would evaluate more seriously the necessity of an individual treatment plant or pre-treatment facility versus the connection to the existing sewage system.

Hungary would welcome a common framework in the field of effluent charging systems. Our intention is to introduce the environmental tax charge, which would eliminate the present fine system.

We have some doubts on the introduction of the common penalty system. The implementation would create great difficulties especially for the candidate countries. We should create only the framework legislation; the implementation could be very different.

Hungary succeeded in closing the environment chapter of the accession negotiations in 2001. Therefore, at this point, the *aquis communautaire* is almost fully incorporated into the national legislation in the field of environment protection. The legal harmonisation process is not finished, due to the new EU legislation (e.g. water framework directive).

At the moment there seems to be a positive attitude towards introducing the new water quality protection regulations. However serious doubts remain with regard to the implementation procedure. Clearly a cooperative attitude is expected from the authorities, but it is a difficult task after 50 year's practice of central authorisation in the country. We expect much more opposition from the industrial side and from the operators of the sewage treatment plants, but we aim to incorporate their interest in the following pieces of legislation.

Today efforts are focused on the enforcement issues, and significant problems are foreseen in providing the appropriate funds for implementation, both in the business sector and also for the authorities. We must allocate a significant amount of money for the enforcement of the inspectorate's personnel staff and their technical equipment, including laboratories.

STATEMENT FROM V. MIKELINSKAITE, LITHUANIAN MINISTRY OF THE ENVIRONMENT (LT)

Effluent charging system in Lithuania

On 12 June 1995 Lithuania signed an association agreement with the European Union. It took one and a half years until the ratification process was completed. Since February 1998 the agreement has been in force. Lithuania is seeking membership to the European Union and has committed itself to fulfil all necessary requirements for membership.

Economic instruments in the water sector

Economic instruments have always had an important role in national environmental policy. The national environmental protection strategy (1996) mentions the polluter/user-pays-principle as one of the basic environmental protection policy principles. It points out that this principle should be implemented in the near future in water supply and treatment sectors. In attaining environmental strategy goals, economic instruments are necessary to encourage pollution minimisation and prevention, as well as the minimisation and prevention of the waste of natural resources. Economic instruments for pollution charges for discharge of pollutants into the surface water have to limit themselves to the most important and most dangerous of the environment pollutants. Charge rates should be modified to better reflect the environmental protection objectives. In estimating the level of user charges, the most important thing is to achieve full cost recovery.

Economic instruments and principles such as the polluter-pays and cost-recovery principles have been used as additional means to achieve environmental objectives in Lithuania. The basic economic instruments used to manage water pollution control are:

- pollution charges (including non-compliance fees);
- user charges;
- economic sanctions and compensation for damages;
- administrative fines;
- State subsidies for the implementation of water treatment plants.

Charges on environmental pollution, economic sanctions and compensation for damages are integral parts of the environmental management system. Subsidies for environmental protection in Lithuania are also widely used and are given to the public sector. In addition to State guaranties for different loan schemes, the Environmental Investment Fund was created to provide soft loans and interest subsidies for environmental projects. In addition, the State Nature Protection Fund (1988) and municipal funds (1992) (now 60 of them) were established as a subsidiary financial source for environmental needs. The State Nature Protection Fund's financial means are fines for different law violations related to environmental protection and the municipal funds receive 70 % of the pollution charges. The revenues collected in the funds are used for environmental purposes only.

According to the Law on Pollution Charges (1999) 70 % of revenues collected are directed to municipal funds, 20 % — to the Lithuanian Environmental Protection Investment Fund, and 10 % — to the State budget.

Legal basis

The most important phase in the implementation of the new system of economic environmental management in Lithuania was the introduction of charges on environmental pollution. They have been in force since 2 April 1991 (Lithuanian Republic Law on Charges on Environmental Pollution, amended on 13 May 1999). This is the main instrument aimed at influencing the behaviour of economic agents. According to the Law on Charges on Environmental Pollution, the objective of pollution charges is to stimulate pollution abatement and reduce the harmful impact on the environment. The system on pollution charges covers both administrative and economic approaches to environmental management. Economic interest is related to two kinds of emission limits for enterprises. One limit is the maximum allowable pollution (MAP) which is set for all legal or natural persons whose activities have a negative effect on the environment. If an enterprise possesses no technical possibilities to reach the MAP limits (e.g. no or little capacity for sewage treatment, unavailability of treatment technologies, etc.) the second limit, the temporary allowable pollution (TAP) will apply. In this case the enterprise must foresee concrete measures to reach MAP.

Charges for direct emissions are set by the State and are mainly paid by enterprises and water treatment plants which discharge pollutants into the surface water. These charges apply only to those polluters who are obliged to get pollution permits (permits are compulsory for polluters who discharge five or more cubic metres of effluents into the surface water per day). The institution responsible for the issue of permits and the control of set standards for different kinds of pollutants is the Regional Environmental Protection Department under the jurisdiction of the Ministry of Environmental Protection.

Water supply and treatment companies belong to municipalities, so the latter regulate the level of user charges. Water companies which manage collection systems have their 'own system' in charging industries for pollution level. User charge consists of operational costs, treatment costs, administrative costs and includes part of the pollution charge which is paid by operators of sewage treatment plants as the ultimate dischargers to the environment. However, the cost of the effluent charges is passed to indirect emitters. Eventually the indirect emitters pay their share of the pollution charge.

Charge rates

The system of pollution charges accepted in 1991 did not provide desired stimulus for the reduction of pollution and did not cover the costs of pollution treatment. That is why in 1999 the system was revised and amended. According to the new system, tariffs for main pollutants (such as BOD₇, phosphorus, nitrogen and suspended solids) lead to the reduction of pollution to a desired level. With regard to this, the level of tariffs is arranged in ascending order to ensure pollution reduction achievement in a certain period of time.

Table 2 — Basic charge rates on water pollutants

<i>Pollutants</i>	Pollution rates (EUR/tonne) per year				
	2000	2001	2002	2003	2004
BOD₇	135	159	181	199	213
Nitrogen	121	121	121	153	167
Phosphorus	412	412	412	556	835
Suspended solids	24	58	69	78	86
<i>Pollutant groups</i>					
I	2420829	2420829	2420829	2420829	2420829
II	220565	220565	220565	220565	220565
III	35963	35963	35963	35963	35963
IV	8150	8150	8150	8150	8150
V	799	799	799	799	799

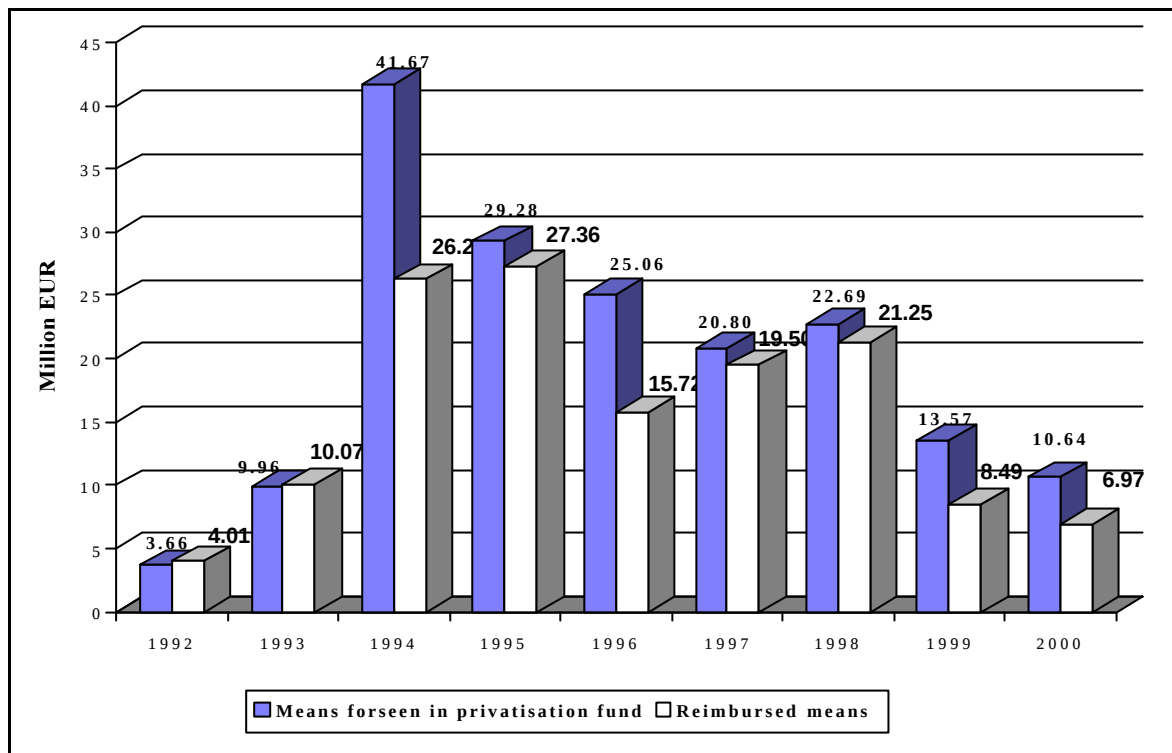
Two rates are used: base rate for the emissions at or below standard and penalty rate for the emissions above standard. Penalty rate is relatively bigger for more toxic pollutants than for less toxic. Polluters which have TAP permits starting from 1 January 2003 are obliged to pay 20 % higher base rate than polluters which have MAP permits.

Revenues from charges and sanctions

Water pollution charges collected by the State make up 60 % of the total amount of pollution charges. Total amount of charges including water and air pollution charges in 2000 make up EUR 7 million (60 % water charges). Some 624 cases of violation were found (70 % of them in water sector) and EUR 0.7 million of sanctions was paid for them (about 60 % of them water charges).

The use of revenues

Waste-water treatment receives the greatest attention and the largest amount of investments in comparison with other sectors. The main local environmental investment financing source is the State budget. From 1992 to 2001, the water sector received approximately **EUR 140 million from the State budget**. The largest amount of funds was allocated to the construction of water treatment plants in large cities. In recent years these sums amounted to almost 3 % of the national budget.



The dynamic of State investments for the construction of water treatment plants

Non-compliance fees and penalties

General grounds for determining responsibility for environmental non-compliance are established in the Law on Environmental Protection of the Republic of Lithuania. It regulates liability and State control of environmental protection. Natural and legal persons who have the requirements of environmental protection norms are served with disciplinary, administrative and criminal penalties in accordance with the laws of the Republic of Lithuania.

Therefore, there are two categories of economic instruments used in the case of non-compliance.

- (1) If a source exceeds the annual limit (set in the permit) or the limit for a certain period (calculated in the case of a concentration being exceeded for a certain period) of pollutants emitted, according to the law on pollution charges, it needs to pay a sum calculated on the basis of the increased rate.
- (2) If a legal or natural person caused damage to the environment by polluting the water body in a banned place or without a permit (when the permit is compulsory) he is liable for the damage done to the environment and needs to pay an amount of money, calculated according to the methodology for assessing damage resulting from environmental non-compliance.

Administrative responsibility for violations of laws regulating the protection of environment and the use of natural resources is established in the code of violations of administrative law.

Financial responsibility is assigned in cases where violations of environmental protection laws have caused damages to the environment. The methodology for assessing damages resulting from environmental non-

compliance was adopted in 1991. It foresees fines for accidental discharges into water, accidental emissions to the air and for the disposal of wastes in banned places. However the methodology of 1991 lacked serious economic underpinning and its different parts were based on different principles. Now the ministry is working on a new proposal for the methodology.

The main obligation related to the accession to the EU raised the question of financing this sector at a very high level. The Lithuanian environmental financing strategy identifies that EUR 1 600 million of investments will be needed to cover total costs related to approximation (including drinking water projects). The biggest share of investment funds is required for water and waste sectors. Lithuania has to implement the waste-water treatment directive before 2010. ISPA and State budget investments will be used mainly for this implementation. It will take an average of EUR 50–60 million of annual investments for the period 2000–10.

ANNEXES

Speakers were asked to address within their statement some specific questions concerning 'Effluent charging systems' (see Annex I).

Answers to these questions were incorporated within the above mentioned statements.

Additional replies concerning these questions are concerning Germany (Annex II, in German) and France (Annex III, in French)

Annex IV summarises in German the situation concerning waste water in Germany (statement of the respective German Association BGW: Bundesverband der Deutschen Gas- und Wasserwirtschaft).

ANNEX I: QUESTIONS FOR SPEAKERS

ANNEX II: POSITION OF K. BERENDES, MINISTERIUM FUER UMWELT, NATURSCHUTZ UND REAKTORSICHERHEIT, BONN (D)

ANNEX III: POSITION OF F. BOUDIER, MINISTÈRE DE L'AMÉNAGEMENT DU TERRITOIRE ET DE L'ENVIRONNEMENT (F)

ANNEX IV: POSITION OF M. SCHMITZ, BUNDESVERBAND DER DEUTSCHEN GAS- UND WASSERWIRTSCHAFT, BGW, BERLIN (D)

ANNEX I: QUESTIONS FOR SPEAKERS

Speakers were asked to answer within their statements the following questions:

1. What economic instruments are used to govern water pollution control in your country (charges for direct/indirect emissions)?
2. What are the outcomes of the effluent charging system in your country please give an evaluation from your point of view?
3. Are there any current discussions or changes foreseen in the near future regarding effluent charging systems?
4. Do you think that effluent charging systems influence competition at European level?
5. Does unequal treatment of direct and indirect emissions distort competition or set unwanted incentives?
6. Would a common framework concerning effluent charging systems (or more generally by the use of economic instruments used to govern water pollution control) be positively received in your country?
7. Is a common framework on the EU level in this field (see Question 6) useful to ensure a high and harmonised level of environmental protection?
8. Should the EU develop common penalties for breaches of water pollution control?
9. How much of the *acquis communautaire* in this area has been incorporated into national law in the candidate countries?
10. What in your view are the specific problems in the candidate countries?

(Questions No 9 and 10 concern only candidate countries.)

ANNEX II: POSITION OF K. BERENDES, MINISTERIUM FÜR UMWELT, NATURSCHUTZ UND REAKTORSICHERHEIT, BONN (D)

Allgemeine Vorbemerkung

In den politischen Diskussionen auf Gemeinschaftsebene über Umweltschutzmaßnahmen im Allgemeinen und Abwasserabgabensysteme im Besonderen spielen immer wieder die möglichen Auswirkungen auf den wirtschaftlichen Wettbewerb eine zentrale Rolle. Sie stehen auch bei diesem Workshop zur Diskussion. Deshalb soll vorweg Folgendes grundsätzlich festgestellt werden:

Abwasserabgaben umfassen nur einen sehr geringen Teil der insgesamt vom Einleiter zu tragenden Kosten der Abwasserbeseitigung und die Abwasserkosten wiederum sind nur ein Teil aller auf den Umweltschutz entfallenden Betriebsausgaben. Wenn sich schon, wie man durch wissenschaftliche Untersuchungen weiß, die Umweltschutzkosten im Ganzen nur in relativ geringem Umfang auf die Wettbewerbsfähigkeit der europäischen Industrie auswirken, dann gilt dies noch viel mehr für Abwasserabgaben. Diese beeinträchtigen entweder gar nicht oder – von wenigen Ausnahmefällen vielleicht abgesehen – nur marginal den freien Wettbewerb.

Die für die Politik wichtigere Frage ist deshalb, ob Abwasserabgaben zur Verbesserung des Gewässerschutzes beitragen und der Erreichung eines hohen Schutzniveaus für die Umwelt im Sinne von Artikel 174 EG-Vertrag dienen. Die besondere Eignung und Effizienz ökonomischer Instrumente als strategisches Steuerungsmittel zur Förderung von umweltgerechtem Verhalten ist allgemein anerkannt. Ihren Einsatz in der wasserwirtschaftlichen Praxis zu verstärken gehört auch zu den Zielen der neuen Wasserrahmenrichtlinie. Dies durchzusetzen ist, wie die bisherigen Erfahrungen zeigen, nicht einfach. Aber es sollte auch klar sein, dass sich gerade breit wirkende ökonomische Umweltschutzinstrumente für eine Harmonisierung auf Gemeinschaftsebene anbieten.

Es ist im Rahmen des Workshops nicht möglich, das komplizierte deutsche Abwasserabgabensystem näher zu erläutern. Insofern muss und kann auf die Darstellung in der Studie von Ecologic verwiesen werden. Hier kann nur zu den konkret an die Mitgliedstaaten gerichteten Fragen Stellung genommen werden.

Frage 1 (Ökonomische Instrumente in Deutschland)

Für das direkte Einleiten von Abwasser in Gewässer hat der Einleiter zunächst die Kosten der notwendigen Reinhaltemaßnahmen, insbesondere also Bau und Betrieb von Kläranlagen, sowie der sonstigen Entsorgungsmaßnahmen zu tragen. Daneben ist für die Inanspruchnahme des Gewässers eine Abwasserabgabe zu zahlen.

Beim Indirekteinleiter fallen die Kosten für den Anschluss an die öffentlichen Abwasseranlagen (insbesondere Kanalisation und Kläranlage) und ihre Benutzung in Form von Beiträgen und Gebühren an. Die Umlage hat nach dem Kostendeckungsprinzip zu erfolgen, d. h., die Kosten müssen und dürfen auch nur den für das Entsorgungssystem entstehenden Aufwand ausgleichen. Hierzu gehört auch die vom Betreiber der zentralen Kläranlage als Direkteinleiter an das Land zu zahlende Abwasserabgabe.

Die insgesamt von den Abwassereinleitern zu tragenden Abwasserbeseitigungskosten sind in Deutschland hoch, weil aus mehreren Gründen anspruchsvolle Standards gelten und diese in der Praxis auch angewandt werden. Hinzu kommt, dass staatliche Investitionshilfen für Gewässerschutzmaßnahmen der privaten Wirtschaft kaum noch gewährt werden.

Frage 2 (Ergebnisse des Abgabesystems)

Die Abwasserabgabe schafft wirtschaftliche Anreize, weniger Schadstoffe in Gewässer einzuleiten. Sie hat in Deutschland mit dazu beigetragen, die Abwasserreinigung entscheidend zu verbessern und auf einen hohen Stand zu bringen. Im Zusammenwirken mit den ordnungsrechtlichen Anforderungen nach dem Wasserhaushaltsgesetz beschleunigt die Abgabe insbesondere die Durchsetzung der besten verfügbaren Technik (BAT).

Neben der Emissionsminderung werden durch die Abwasserabgabe Einnahmen erzielt, die von den Ländern für der Gewässerreinigung dienende Maßnahmen zu verwenden sind. Das Aufkommen betrug z. B. im Jahr 2000 insgesamt 746,2 Mio. DEM (381,5 Mio. EUR). Durch eine gezielte staatliche Förderung vor allem innovativer Gewässerschutzstrategien kann die Anreizfunktion der Abgabe verstärkt werden.

Frage 3 (Angestrebte Änderungen)

Das Abwasserabgabengesetz war in Deutschland stets umstritten und in allen Fassungen eine Kompromisslösung. Aus der unterschiedlichen Sicht der Umweltpolitik, der mit der Abgabe belasteten Anlagenbetreiber und der behördlichen Vollzugspraxis gab es naturgemäß immer Regelungen, die man als verbesserungsbedürftig angesehen hat. Das grundsätzliche Problem besteht darin, den notwendigen Konsens über ein politisch tragfähiges Gesamtkonzept zu finden. Hauptpunkt der aktuellen Novellierungsdiskussion ist die Erhebung der Abwasserabgabe nicht mehr auf der Grundlage behördlich zugelassener Grenzwerte, sondern tatsächlich eingeleiteter Frachten, die nach bestimmten Messprogrammen ermittelt werden. Daneben gibt es aber auch Bestrebungen, das Abwasserabgabengesetz ganz abzuschaffen, weil es seine Zielsetzungen weitgehend erreicht habe und deshalb entbehrlich geworden sei. Derzeit ist ein konsensfähiges Gesamtkonzept noch nicht in Sicht.

Frage 4 (Beeinflussung des Wettbewerbs)

Auf die allgemeine Bemerkung zu Beginn des Beitrags wird verwiesen. Ein spürbarer Einfluss von Abwasserabgabensystemen auf den Wettbewerb in Europa kommt danach allenfalls in wenigen, hoch belasteten Industriebranchen in Betracht. Konkretere Aussagen sind erst möglich, wenn die aus einem Abgabesystem resultierenden finanziellen Folgen erkennbar sind.

Frage 5 (Ungleichbehandlung von Direkt- und Indirekteinleitungen)

Deutschland gehört zu den Ländern, die eine Abwasserabgabe nur auf direkte Einleitungen in Gewässer erheben. Dies ist immer wieder kontrovers diskutiert worden. Aus der Sicht der Bundesregierung und der Bundesländer werden durch die unterschiedliche Behandlung aber weder Wettbewerbsverzerrungen noch unerwünschte Anreize ausgelöst. Die Abwasserabgabe spielt bei der Entscheidung, ob Abwasser direkt oder indirekt eingeleitet wird, praktisch keine Rolle. Die Erhebung einer Abwasserabgabe bei der Vielzahl der Indirekteinleiter würde einen hohen Verwaltungsaufwand erfordern, dem kein adäquater Nutzen für den

Gewässerschutz gegenüberstünde. Notwendige Vorbehandlungsmaßnahmen, für die durch eine Abgabe ein wirtschaftlicher Anreiz geschaffen würde, können ordnungsrechtlich durchgesetzt werden. Im übrigen ist es möglich, bei der Ausgestaltung der Gebühren für die Indirekteinleitung die Schädlichkeit des Abwassers zu berücksichtigen, z. B. durch Zuschläge für stark verschmutztes Abwasser. Solche Zuschläge werden vielfach auch tatsächlich erhoben.

Frage 6 (EG-Richtlinie über Abwasserabgabensysteme)

Die deutsche Bundesregierung hat von Anfang an Überlegungen der Kommission zu einer Harmonisierung der Abwasserabgabensysteme in den Mitgliedstaaten unterstützt. An dieser grundsätzlichen Position hat sich nichts geändert. Aus dem Kreis in Betracht kommender Umweltabgaben erscheint die Abwasserabgabe in besonderer Weise geeignet, einen wirksamen Beitrag zur Erreichung der umweltpolitischen Zielsetzungen der Gemeinschaft zu leisten. Angemessene Preise für die Nutzung der Umwelt sind weltweit aus ökologischer und aus ökonomischer Sicht als effizientes Instrument zur Begrenzung der mit der Nutzung verbundenen Belastungen anerkannt. Und es dürfte auch kaum zweifelhaft sein, dass von diesen Instrumenten noch zu wenig Gebrauch gemacht wird.

Frage 7 (Hohes Schutzniveau in der EU)

Die bisherigen Ausführungen haben deutlich gemacht, dass eine Gemeinschaftsregelung über Abwasserabgaben geeignet ist, einen wesentlichen Beitrag zur Erreichung des angestrebten hohen Schutzniveaus in der EU zu leisten. Im Einzelnen ist dabei natürlich maßgebend, wie die Abgabensysteme ausgestaltet sind. Eine wirksame EG-Regelung durchzusetzen, ist eine schwierige politische Aufgabe, denn die Widerstände gegen den Bürger und die Wirtschaft belastende Abgaben sind erfahrungsgemäß groß. Deshalb müsste auch überlegt werden, die Harmonisierung stufenweise durchzuführen. In jedem Fall bedarf die EU-weite Einführung und Harmonisierung von Abwasserabgabensystemen einer sorgfältig vorzubereitenden strategischen politischen Planung.

Frage 8 (Strafen für Gewässerverschmutzung)

In Deutschland gibt es einen sehr weit gehenden strafrechtlichen Schutz der Gewässer. Die unbefugte Gewässerverunreinigung ist nach dem allgemeinen Strafgesetzbuch eine kriminelle Handlung, die mit Freiheitsstrafe bis zu 5 Jahren oder mit Geldstrafe geahndet wird. Strafbar sind nicht nur vorsätzliche, sondern auch fahrlässige Taten.

Die Strafvorschriften haben sich als wirksames Gewässerschutzinstrument erwiesen. Nach der illegalen Abfallbeseitigung ist die unbefugte Gewässerverunreinigung das am häufigsten verfolgte Umweltdelikt. Die Abwassereinleiter haben ein großes Interesse daran, schon den Verdacht einer unbefugten Gewässerverunreinigung und die damit verbundene Einleitung eines Ermittlungsverfahrens der Staatsanwaltschaft zu vermeiden. Solche Verfahren sind häufig mit von den Betroffenen als diskriminierend empfundenen Diskussionen in der Öffentlichkeit verbunden. Angesichts des hohen Rangs, den eine saubere Umwelt auch im Wertesystem der EU genießt, sollte in allen Mitgliedstaaten eine gemeinsame Grundlage für strafrechtliche Schutzvorschriften bestehen.

ANNEX III: POSITION DE F. BOUDIER, MINISTÈRE DE L'AMÉNAGEMENT DU TERRITOIRE ET DE L'ENVIRONNEMENT (F)

Question n° 1

La loi de 1964 a institué en France une gestion par grand bassin hydrographique avec la création des comités de bassin où sont représentés les collectivités locales, les usagers et les services de l'État. La loi de janvier 1992 lui confie l'élaboration du schéma directeur d'aménagement et de gestion des eaux, document de planification pour le bassin.

La loi de 1964 a également créé dans chaque grand bassin une agence de l'eau, établissement public de l'État chargé d'inciter par la redevance et par des aides à une meilleure gestion de la ressource «eau». Les programmes d'intervention des agences sont élaborés en étroite concertation avec les comités de bassin, leur avis favorable étant requis par la loi pour la fixation des taux de redevances.

Enfin, pour contribuer à une meilleure gestion de l'eau, la France a mis en place des redevances sur les rejets dans les eaux et les prélèvements d'eau, également instituées par la loi du 16 décembre 1964 au profit des agences de l'eau.

Les recettes de ces redevances affectées aux agences de l'eau leur permettent d'inciter à la réalisation des travaux et actions nécessaires pour une meilleure gestion de l'eau au niveau du bassin versant. Leur montant global annuel est de 1,2 milliard d'euros.

L'ensemble des pollueurs (agriculteurs, industriels, habitants) sont soumis aux redevances sur la base des rejets sortant de leurs installations.

En ce qui concerne l'industrie, toutes les entreprises sont redevables indifféremment des modalités d'épuration des rejets comme de la taille des structures: les industriels non raccordés à un réseau de collecte et à une station d'épuration de collectivité locale comme les industriels non raccordés, les grandes, les moyennes, les petites entreprises, y compris artisanales, paient au titre de la redevance pour pollution.

Question n° 2

Le dispositif mis en œuvre a permis une nette progression du taux d'épuration des rejets des collectivités et des industries.

Globalement, pour l'ensemble des établissements industriels, qu'ils soient raccordés ou non à des stations d'épuration des collectivités, la pollution organique rejetée par les industriels a diminué de 60 % entre 1974 et 1997.

Pour des industries réalisant elles-mêmes leur épuration, dans le secteur de l'agroalimentaire par exemple, la pollution éliminée dépasse largement les 80 %.

Question n° 3

Le projet de loi présenté par le gouvernement le 27 juin 2001 portant réforme de la politique de l'eau transpose en droit interne la directive-cadre et arrête au niveau national les assiettes et l'encadrement des taux des redevances ainsi que les orientations des futurs programmes des agences de l'eau.

La réforme des redevances des agences de l'eau a pour objectif une meilleure application du principe du «pollueur payeur» en soumettant désormais à redevance les excédents d'azote liés aux activités agricoles ainsi que les rejets thermiques.

Dans la limite de la fourchette de taux fixé par le Parlement, chaque comité de bassin aura la possibilité de fixer les taux de redevances appropriés au vu des situations locales. Le projet de loi prévoit ainsi une possible variation du taux de la redevance sur les rejets polluants en fonction de la sensibilité du milieu aux pollutions.

Question n° 4

Si globalement les traitements des eaux usées ne représentent qu'environ 1 % des dépenses totales des industriels, le coût de la dépollution peut atteindre des valeurs plus importantes dans certaines branches (près de 10 % pour certains traitements de surface).

L'application d'une redevance du type «pollueur payeur» a pour objectif d'inciter les usagers de l'eau à mieux gérer la ressource «eau», tant en quantité qu'en qualité.

La redevance permet d'internaliser les coûts externes. À ce titre, elle évite de donner un avantage indu au pollueur sur les autres entreprises qui consentent des efforts en matière de dépollution et au détriment des autres usagers de manière plus générale.

La compétitivité globale n'est pas affectée dans la mesure où la recette financière dégagée est affectée à des dépenses dans le domaine de l'eau, dans le respect du principe de récupération des coûts par grand secteur économique.

Sur le long terme, ce dispositif général de redevances et d'aides permet au contraire de développer la compétitivité globale en incitant à une gestion rationnelle et durable de la ressource «eau» et en incitant à l'innovation technologique.

À l'inverse, une mauvaise gestion de la ressource ne peut qu'induire à terme des surcoûts de traitement des eaux de fabrication, qui se répercutent à l'ensemble des processus de production, mais également, dans certains domaines, une défection des consommateurs finaux. Produire dans un environnement de qualité est un élément de valeur ajoutée pour des activités économiques.

Question n° 5

Comme il a été dit à la question n° 1, le système français de taxation des rejets pollués dans les eaux prend en compte de manière équivalente, que les industries traitent directement leurs effluents dans une station qui leur est propre ou bien que celles-ci rejettent leurs effluents dans un réseau de collecte public

pour être traités par une station de collectivité locale publique, l'assiette de la redevance étant le rejet initial.

Question n° 6

En France, l'application du principe du «pollueur payeur» aux pollutions diffuses par les nitrates est au cœur du projet de modernisation du dispositif créé par la loi de 1964.

Un cadre européen en ce domaine devrait donc être global, intégrant pollutions ponctuelles et pollution diffuses.

L'application de la directive-cadre permettra par ailleurs de disposer en 2004 d'une vue plus précise sur la récupération des coûts de l'utilisation de l'eau, y compris des coûts pour l'environnement et les ressources.

Les données rassemblées permettront alors de préciser l'appui que pourrait apporter un cadre communautaire pour la définition de la tarification et le respect de l'échéance 2010 prescrite par l'article 9 de la directive-cadre.

Question n° 7

À côté de la tarification, d'autres instruments existent: par exemple l'autorisation et le contrôle des prélèvements et des rejets. C'est la combinaison de l'ensemble de ces mesures qui permettra des avancées pour une gestion durable de l'eau.

L'eau est tout d'abord une ressource dont la quantité et la qualité dépendent de situations locales. Les assiettes de redevances et les taux doivent pouvoir être définis en fonction des contraintes locales de protection du milieu; ici, c'est le phosphore qui est le facteur polluant le plus gênant, là ce sont des rejets de matières organiques.

Ces modulations des taux de redevances en fonction des pressions et des impacts sur les milieux ne peuvent être définies qu'au niveau du grand bassin hydrographique, c'est-à-dire du district, en toute transparence entre les divers usagers de l'eau. La mise en place de ces instruments doit donc largement faire appel au principe de subsidiarité. La directive-cadre, en faisant de la tarification une mesure pour une meilleure gestion de l'eau, invite à engager cette réflexion au niveau des districts.

Question n° 8

La directive-cadre précise les dispositions à prendre pour le suivi de l'état des eaux. Les programmes de mesures définiront les actions à engager pour le suivi des prélèvements et des rejets, le contenu de ces contrôles étant adapté aux situations locales au vu des pressions liées aux activités économiques et de leurs incidences sur l'état des eaux.

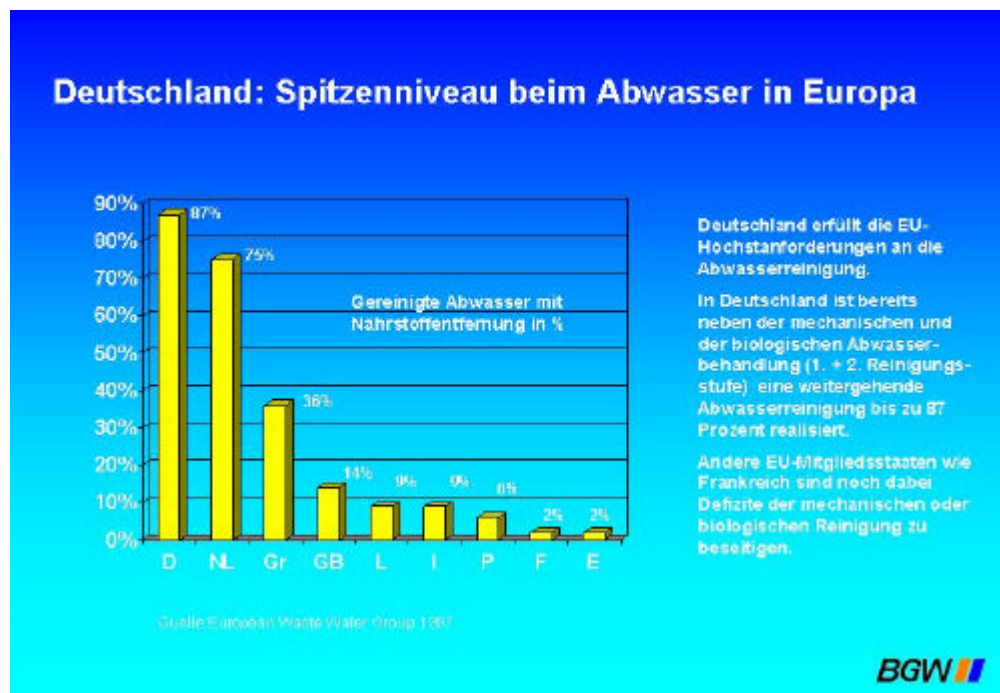
La directive-cadre définit des obligations pour les États membres qui seront responsables de leur bonne mise en œuvre. La directive prévoit par ailleurs que les États membres doivent mettre en place un système de pénalités financières, d'un montant suffisant, en cas d'infraction.

Il apparaît ainsi que le processus prévu par la directive-cadre répond à ce souci d'une plus grande incitation au respect des procédures de contrôle des milieux et des rejets.

ANNEX IV: POSITION OF M. SCHMITZ, BUNDESVERBAND DER DEUTSCHEN GAS- UND WASSERWIRTSCHAFT, BGW, BERLIN (D)

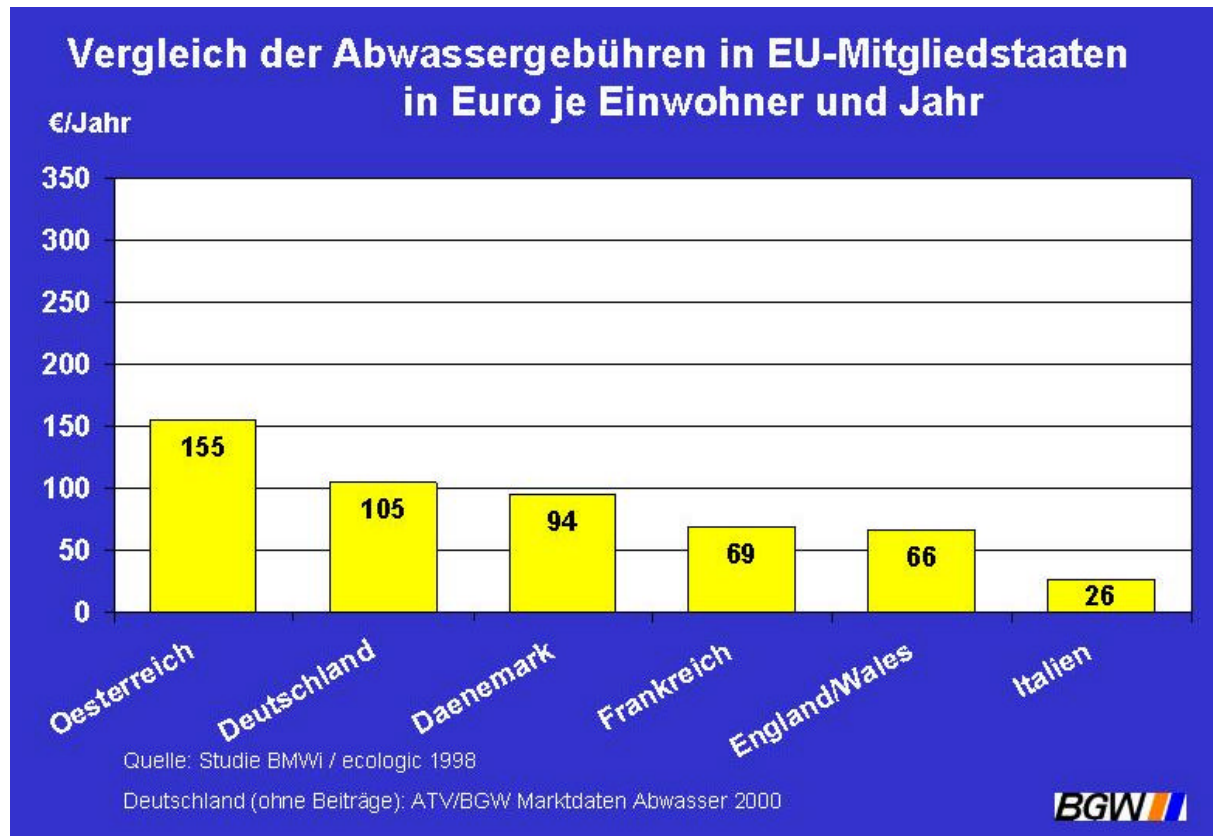
Die Situation der deutschen Abwasserentsorgungswirtschaft stellt sich folgendermaßen dar:

- Es gibt in Deutschland rd. 7 000 Abwasserentsorger, von denen rd. 97 % öffentlich-rechtlich organisiert sind. Die Dienstleistung wird zu rd. 85 % öffentlich und zu rd. 15 % mit Hilfe privatrechtlich organisierter Unternehmen durchgeführt.
- Deutschlands Abwasserreinigung hat einen Spitzenstandard:
Es gibt rd. 10 300 Kläranlagen, das öffentliche Kanalnetz hat eine Länge von über rd. 450 000 km, der Anschlussgrad nimmt mit rd. 98 % eine Spitzenstellung in Europa ein. Zum Ausbau der Reinigungsstufen: Der nach der EG-Abwasserrichtlinie bis 2005 zu erfüllende „Normstandard“ einer ersten und zweiten Reinigungsstufe wird flächendeckend bereits heute erfüllt. Der nach der EG-Abwasserrichtlinie für sensible Gebiete zu erfüllende Höchststandard, d. h. die dritte Reinigungsstufe zur Vermeidung der Eutrophierung der Gewässer, wird – auf das Gesamtgebiet Deutschland gesehen – ebenfalls heute bereits erfüllt. Mit den Niederlanden nimmt Deutschland beim Ausbau der dritten Reinigungsstufe eine Spitzenposition in der Europäischen Gemeinschaft ein. Als Konsequenz hat sich die Qualität der Gewässergüte in Deutschland erheblich verbessert.



- Der Vergleich der europäischen Abwassergebühren zeigt, dass in Mitgliedstaaten, wie Österreich und Deutschland, die viel im Abwasserbereich investiert haben, die Gebühren deutlich höher sind als in Mitgliedstaaten, die einen großen Nachholbedarf haben. Ein oberflächlicher Vergleich der Abwassergebühren täuscht. Die realen Leistungen werden nicht gemessen. Dies hat auch der Bericht der EU-Kommission über die Situation der Abwasserentsorgung in den Mitgliedstaaten klar

herausgestellt: Über 150 Großstädte in Europa haben keine oder eine unzureichende Abwasserreinigung. Brüssel und Mailand verfügen z. B. über keine Kläranlage; dabei sind Mailand und Brüssel nicht arm. Es geht hierbei um Fragen der Nicht-Einhaltung der EG-Abwasserrichtlinie. Es kommt also darauf an, nicht Äpfel mit Birnen zu vergleichen, sondern Leistungen und Realitäten.



EU-Kommission: Europäische Großstädte ohne Abwasserreinigung

Belgien	Brüssel
Griechenland	Patras
Großbritannien	Dover
Irland	Cork
Italien	Mailand
Portugal	Porto
Spanien	Cadiz

Quelle: Beispiele: EU-Kommission 3/2001

BGW

EU-Kommission: Großstädte ohne EG-Standard Abwasserreinigung	
Belgien	Lüttich
Frankreich	Paris
	Bordeaux
	Marseille
Griechenland	Athen
	Thessaloniki
Großbritannien	Edinburgh
	Birmingham
Irland	Dublin
Italien	Triest
	Como
Portugal	Lissabon
Spanien	Barcelona
	Palma de Mallorca
Quelle: Beispiele: EU-Kommission 3/2001	
	

- Die deutschen Abwasserentsorger haben zur Erreichung der Ziele der EG-Abwasserrichtlinie in den vergangenen zehn Jahren jährlich zwischen 5,1 und 7,7 Mrd. EUR investiert; allein auf die neuen Bundesländer entfielen Investitionen von rd. 20 Mrd. EUR. Auf den gesamten Zeitraum gesehen betrugen die Investitionen also rd. 66,5 Mrd. EUR und damit so viel, wie die EU-Kommission für die Umsetzung der EG-Abwasserrichtlinie in der gesamten Europäischen Union schätzte. Die aktuelle Abwassergebühr beträgt durchschnittlich 2,26 EUR/m³ (gemessen am Kubikmeter-Maßstab Trinkwasser).
- In der Kommunalgesetzgebung ist verpflichtend die Kostendeckung im Wasserpreis festgelegt. Dies stellt die nötigen Mittel für den Infrastrukturaufbau sicher.

Zum Workshop Thema Abwasserabgabe

- Der BGW begrüßt die Durchführung des Workshops über Abwasserabgabensysteme in Europa, der vom Unterausschuss des Europäischen Parlaments initiiert wurde. Der nun vorliegende Forschungsbericht beleuchtet die Situation der Abwasserabgabe in den Mitgliedstaaten; er verdeutlicht

Probleme, zeigt aber auch Grenzen und Optionen auf.

- Die Position des BGW zum Thema Abwasserabgabe ist klar: Die Abwasserabgabe wurde in Deutschland als erstes ökonomisches Instrument als Anreiz zur Verbesserung der Abwasserreinigung eingeführt. Dieses Ziel ist erreicht. Deutschland erfüllt die Anforderungen der EG-Abwasserrichtlinie mit Höchst- und Normstandard bereits heute. Die Abwasserabgabe hat in Deutschland ihre Funktion erfüllt, ihre Abschaffung darf kein Tabuthema mehr sein.

Vor diesem Hintergrund lehnt der BGW eine Richtlinie zur Einführung der Abwasserabgabe ab.

- Ob man weiterhin in Deutschland die Abgabe, deren Aufkommen mit über 365 Mio. EUR eine der höchsten in Europa ist, quasi als Steuer noch zusätzlich als Belastung für den Verbraucher auf die Gebühren legen sollte, ist äußerst fraglich. Die Schmerzgrenze der Verbraucher ist erreicht.
- Dies gilt auch vor dem Hintergrund, dass die Abwasserabgabe als Instrument zur Umsetzung der „umwelt- und ressourcenbezogenen Kosten“ aus der EG-Wasserrahmenrichtlinie diskutiert wird. Der Verbraucher hinterfragt dies zu Recht. Werden produktionsfremde Kosten auf die Abwassergebühren abgewälzt, handelt es sich quasi um eine zusätzliche Steuer. Die Verwaltung des Umwelt- und Gewässerschutzes ist eine staatliche Aufgabe, die grundsätzlich aus dem allgemeinen Steueraufkommen zu finanzieren ist. Die vorgeschlagene Deckung von Umwelt- und Ressourcenkosten über die Abwassergebühren stellt eine Änderung der Finanzierungsgrundlage dar. Dem Verbraucher ist, wenn das Verursacherprinzip nicht angewendet werden wird, zu erklären, was er über die Gebühren zusätzlich bezahlen sollte.
- Die diskutierte Zurechnung der Einnahmen der Abgabe zum Landeshaushalt nährt den Verdacht, dass je nach politischer Dringlichkeit diese Finanzmittel auch für andere Maßnahmen herangezogen werden sollen. Der BGW lehnt produktionsfremde Kostenbelastungen auf den Wasserpreis ab. Ohne konkrete Zweckbindung können Missstände auftreten, dies haben Beispiele in Deutschland bei Wasserentnahmeentgelten gezeigt.
- Bekannt ist, dass die in Deutschland erhobene Abwasserabgabe teilweise quasi „verrechnet“ werden kann. Dies gilt insbesondere dann, wenn die Unternehmen über die EU-Anforderungen hinaus die Abwasserreinigung erweitern. Auch dieses hinterfragt der Verbraucher heute: Die Nitratgehalte in den Gewässern sind trotz der kommunalen Abwasserreinigung mit Stickstoffentfernung nicht gesunken, die diffusen Belastungen der Landwirtschaft verhindern dies.

Fazit

- Die Abwasserabgabe hat in Deutschland ihren Sinn erfüllt; ihre Abschaffung sollte kein Tabuthema mehr sein – zur Entlastung der Bürger und der Unternehmen.
- Der BGW lehnt die Erarbeitung einer Richtlinie für die Einführung von Abwasserabgaben ab.
- Wasserpreise sollen sozial sein; daher hat der Mitgliedstaat auch die Pflicht, ökonomische Instrumente

zu überprüfen – insbesondere wenn diese letztlich einer Übererfüllung dienen –, sonst führen Abwasserabgaben ohne Not zu Wettbewerbs- und Standortnachteilen.

- Es gibt gravierende Wettbewerbsverzerrungen in der Abwasserwirtschaft und bei den Abwassergebühren in der EU. Durch eine Studie sollte die Situation der Abwasserreinigung und der Gebühren in den Mitgliedstaaten transparent gemacht und belegt werden, inwieweit die EG-Abwasserrichtlinie umgesetzt und eingehalten wird und welche Leistungen der Verbraucher letztlich erhält.
- Abwasserabgaben und Abwassergebühren sind zwei verschiedene Dinge. Dass offensichtlich in einigen Mitgliedstaaten diese nicht unterschieden werden, gibt zu denken und sollte überprüft werden. Es muss sichergestellt werden, dass bei der Dienstleistung Abwasserentsorgung die Versorgungssicherheit und die Mittel für die Infrastruktur über Abwassergebühren sichergestellt werden. Das Kostendeckungsprinzip als verbindliches Instrument hat in Deutschland und anderen Mitgliedstaaten bewiesen, dass diese Kriterien der Daseinsvorsorge Abwasserentsorgung damit gewährleistet werden. Eine Richtlinie zur Preisgestaltung lehnt der BGW ab; diese Vorgaben sollten wie bisher den Mitgliedstaaten obliegen. Die „Kostendeckung“ sollte als verbindliches Kriterium bei der Daseinsvorsorge Abwasserentsorgung in die von der EU-Kommission vorgeschlagene Rahmenrichtlinie aufgenommen werden.

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