



Recast of the EU Wastewater Directive

COM(2022) 541

Executive Summary

- AK supports the Commission's plan to adapt the regulations for urban and industrial wastewater to the current challenges of the climate crisis, as well as to the latest state of the art.
- In principle, pollutants should be tackled at source and not removed by an end-of-pipe solution (e.g. micropollutants and microplastics). Here, research and industry are called on to prevent substance discharges and to develop substances that have no negative impact on water quality.
- Improved access to basic sanitation for all people, in particular also for marginalised groups, is expressly welcomed. This will represent the fulfilment of a long-standing demand by workers' representatives.
- In future, greater consideration is to be given to the precautionary principle and the "polluter pays" principle, which is generally welcomed. This is to be achieved by extending producer responsibility for the product groups pharmaceuticals and personal care products. Producers will be required to finance more advanced wastewater treatment ("quaternary treatment"). It should be noted that one of the problems here is that the understanding of extended producer responsibility as developed under the EU Waste Framework Directive is far too narrow. There should be a focus on product design (eco-design) rather than waste disposal. Therefore, the systems for collecting funds must be designed in such a way that each producer receives a direct economic signal to avoid polluting substances.
- In order to ensure that the focus is not on minimising costs for producers instead of the ecological efficiency of wastewater treatment, the specific design of a "producer responsibility organisation" must prevent industry from deciding how the collected contributions are used and distributed. This can only be guaranteed if the organisation and monitoring are in public hands.
- AK is committed to the goals of the Green Deal. However, more advanced wastewater treatment ("quaternary treatment") will also require more energy, so clear targets for greater energy efficiency and savings are needed here for all sectors. This should be taken into account when formulating and implementing goals.
- The obligations for wastewater treatment plant operators to inform consumers about their wastewater treatment services are welcomed. It should be ensured that this information can be published not only online, but also via other formats (e.g. a notice in the community, local newspaper, water bill, etc), without the need for justification.
- From a democratic perspective, we take a critical view of the empowerment for delegated acts. For example, the Commission is to be given the power to adapt treatment requirements (second to quaternary treatment) in line with technical advances or minimum quotas for the reuse and recycling of phosphorus and nitrogen from sewage sludge. It would be better to specify this in the Directive itself.
- The proposed wastewater treatment measures involve significant additional costs for cities and municipalities. It is therefore important that the necessary financing of services of general interest does not fall under the strict EU budget regulations (keyword Maastricht criteria) (requirement for a golden rule on investment).

AK's position

1. Content of the proposal

- The Urban Wastewater Treatment Directive is over 30 years old and is now being revised as part of the EU REFIT process. The objective of the Directive is to protect the environment from harmful effects caused by discharges of urban wastewater and wastewater from certain industries. This has already been achieved successfully in the past 30 years and water quality in rivers, lakes, and seas has improved considerably.
- The revision of the Directive is intended to filter even more substances from wastewater in the future in order to protect the environment and human health. The main focus is on filtering micropollutants and microplastics in the wastewater treatment plant, which is why a further treatment (quaternary treatment) is mandatory for large wastewater treatment plants. Since the construction and operation of a "quaternary treatment" is associated with high costs for the operators, extended producer responsibility is introduced. Moreover, targets for achieving energy neutrality in wastewater treatment plants by 2040 and stricter rules for recycling management are planned. The objective is to reduce greenhouse gas emissions and thereby contribute to the goals of the European Green Deal. In addition, access to basic sanitation is to be improved for all people living in the EU.

2. General remarks

2.1. Wastewater treatment as a public service

Public services, and here in particular water supply and wastewater treatment, are essential for all citizens. Austria's wastewater treatment system is comprehensive, high quality and affordable for citizens. It also compares very favourably with other European countries. It makes an important contribution to keeping water bodies clean and is also an essential factor for

the development of tourism, industry, and commerce. Austria fully complies with the EU's strict requirements on the treatment of urban wastewater. Wastewater management in Austria is largely in public hands. The new stipulations of the Wastewater Directive pose additional challenges for municipalities, especially in financial terms.

The Commission estimates the total cost of all measures at over 3.8 billion euros per year. These costs would be borne 51% by consumers, 22% by the public purse, and 27% by industry. This distribution would further increase the cost of basic sanitation. The most financially vulnerable groups in society would be particularly hard hit by the resulting price increases. Therefore, the costs and profits resulting from the measures must be distributed in such a way that they are not borne by consumers. From the perspective of cities and municipalities, the planned rules would also result in additional costs. Since investment in the waste sector is already necessary for the ongoing clean-up, higher costs for waste management and thus ultimately for the municipalities can be expected in the coming years. The last few years – and particularly the COVID-19 crisis – have highlighted the importance of public services for people's wellbeing and the contribution the wastewater sector makes in this regard. Continuing to provide excellent-quality services for the protection of public health and the environment requires adequate funding. Therefore, the rigid austerity policy imposed on municipal and national budgets following the financial crisis of 2008 must not be repeated in the wake of the COVID-19 pandemic. On the contrary, public services and public companies need to be improved. A golden rule for investment is required so that spending on public infrastructure (water supply and wastewater treatment, electricity supply, public transport, childcare, etc) is no longer accounted for as public debt. Even if this point is in principle not directly affected by the proposed Directive, it is urgently necessary to adapt the EU budget regulations accordingly. Providing wastewater services at affordable prices must continue to be possible despite the new requirements.

Thanks to the success of the European Citizens' Initiative "Right2Water - Water is a Human Right", an exemp-

tion for drinking water supply and wastewater treatment was achieved within the framework of the Concessions Directive. The management of water resources must also not be subjected to internal market rules in the future. Instead, public services need to be improved in all areas. This should be clearly and explicitly formulated in the objectives of the Wastewater Directive.

2.2. Tackling micropollutants and microplastics at source

The revision of the Directive is also intended to further reduce the discharge of pollutants from municipal sources. Therefore, in order to protect the environment and the soil from pollution of any kind (agriculture, industry, transport, energy), the “polluter pays” principle (Article 191 TFEU) should be taken into account or applied much more stringently in general EU legislation. To protect the environment, the approval criteria for all chemical substances, pesticides, cosmetics etc., would have to be revised. In particular, the degradation products and interaction of various substances would have to be taken into account to a much greater extent than has been the case to date.

In this sense, substances that are hazardous or harmful to the environment, especially micropollutants, should be prevented from entering circulation in the first place. It is therefore necessary to strictly regulate the authorisation of these substances and, if necessary, to ban micropollutants from being brought into circulation. For example, for years there have been concerns about the PFAS group (per- and polyfluorinated alkyl compounds), both from a health and an environmental perspective. It would be sensible to restrict the use of PFASs to only the most essential applications. The PFAS group comprises more than 4,000 individual substances. The Federal Environment Agency considers regulation of the entire group of substances to be necessary, particularly in view of the precautionary principle, because all PFAS remain in the environment for a long time.

Wastewater treatment plants filter pollutants to prevent them from entering the environment through runoff. However, sewage sludge is often used as a fertiliser in agriculture. Investigations show that residues from medicines, antibiotics, hormonally-active substances, and even microplastics are released into the environment via sewage sludge on agricultural land and that these micro substances are distributed in the environment (soil, water). EU-wide estimates suggest that between 63,000 and 430,000 tonnes of microplastics enter the soil via sewage sludge each year. For this reason, the AK has been calling for a ban on spreading sewage sludge on agricultural land for some time.

There are different entry pathways for microplastics and these should be tackled at source wherever possible. The EU has taken an important first step towards stemming the tide of plastic with its ban on plastic shopping bags, straws, etc. But there are still many pathways into the environment for microplastics. Further solutions are required here, which must also start with product design.

3. Remarks on the proposed Directive

3.1. Integrated urban wastewater management plans (Article 5)

From an urban development perspective, rainwater runoff is of particular relevance. In the future, therefore, integrated plans for urban wastewater management in large cities will be mandatory. In addition, the combined sewer overflow for municipalities with more than 100,000 inhabitants should not exceed 1% of the annual urban wastewater load (calculated during dry weather). When it rains heavily, rainwater cannot always be fully discharged into the sewer system and is therefore partially discharged into bodies of water.

As positive as this proposal is, the cost-benefit ratio also requires examination. The cost of building the required storage capacity is around 1,000 to 1,500 euros per cubic metre. Nature-based solutions for managing rainwater runoff through permeable pavements and green spaces, green roofs, and man-made wetlands, hollows, and infiltration basins are already being implemented in the city of Vienna in exemplary fashion. Such measures can also ensure improved water retention during heavy rain.

Furthermore, it is proposed that in future all large wastewater treatment plants will have to measure the proportion of microplastics. In Austria, around 51% of sewage sludge is currently incinerated. This proportion will increase with an amendment to the Waste Incineration Ordinance, which stipulates that the sewage sludge from all 185 municipal wastewater treatment plants serving more than 20,000 residents must be incinerated. As a “prerequisite”, phosphorus must be recovered with an efficiency of at least 80%. Alternatively, recovery can take place without incineration, provided that a phosphorus recovery rate of at least 60% is achieved relative to the inflow of the wastewater treatment plant. When sewage sludge is incinerated, it does not appear to be purposeful or necessary to measure the proportion of microplastics. This microplastic no longer enters the environment, water or soil. Against this background, the mandatory, regular monitoring of microplastics in sewage sludge is questioned.

The AK advocates a ban on spreading sewage sludge to prevent microplastics, antibiotic residues, and other micropollutants from entering the environment.

3.2. Tertiary treatment – total load of phosphorus and nitrogen (Article 7)

According to Article 7 (5), the input of the nutrients nitrogen and phosphorus from wastewater treatment plants will be reduced even further in the future. In principle, stricter specifications in order to improve environmental protection are positive. However, in the case of nitrogen in particular, it must be remembered that the agricultural sector is one of the main sources of nitrogen in the environment. For the nutrients nitrogen and phosphorus, all Austrian wastewater treatment plants achieve removal rates of 81% for nitrogen and 90% for phosphorus. In any case, an increase in these values is associated with investment costs for the construction of additional basin capacity. The AK therefore suggests carefully rechecking the exact level of the actual loads of nitrogen and phosphorus from wastewater plants and what effect an increase in these values would have on the environment before they are made mandatory.

3.3. Quaternary treatment – new (Article 8)

The AK supports the plan to reduce the input of micropollutants into the environment as much as possible, the risk-based approach proposed with it, and further wastewater treatment (“quaternary treatment”). In principle, combating the formation or input of micropollutants should be significantly improved in the future, so that a quaternary treatment is no longer necessary in the medium and long term. It still takes a very long time to ban substances that are approved in the EU but are now classified as a concern. This is another reason why a quaternary treatment is necessary to retain micropollutants and microplastics. In any case, it should be ensured that the resulting sewage sludge is no longer released into the environment.

However, support should also be given to create smaller units for wastewater treatment to reduce micropollutants. For example, in hospitals, which usually have a high proportion of pharmaceutical residues in their wastewater, a dedicated wastewater treatment plant with a quaternary treatment could significantly relieve the burden on the municipal wastewater treatment plant. This could eliminate the need for a quaternary treatment in some cities, depending on the level of micropollutant loading.

3.4. Precautionary principle – Financing the quaternary treatment – Extended producer responsibility (Articles 1, 9 and 10)

The introduction of extended producer responsibility considerably strengthens the “polluter pays” principle. In future, polluters will be required to contribute to the costs of more advanced wastewater treatment (“quaternary treatment”). Extended producer responsibility is introduced for pharmaceutical and personal care product groups, as these are responsible for 90% of the micropollutants present in wastewater. The AK welcomes this proposal, as well as the exemption for products that do not leave any micropollutants in the water at the end of their life. However, it should be possible to expand the product groups currently envisaged. In addition, exceptions to extended producer responsibility should be kept to a minimum. Therefore, the exoneration for producers of pharmaceuticals and personal care products that place less than two tonnes of products on the market per year would also need to be reviewed. After all, substances can have negative effects on water quality even in very small quantities. In any case, it must be ensured that the quantity of two tonnes refers to the EU market and not to the national level. It must also be ensured that extended producer responsibility also applies to online trade and to products or components not produced in the EU and is therefore also applicable to third countries.

In the case of “producer responsibility organisations”, it must be ensured that the responsibility, as well as control of these organisations, is in public hands. The industry should not be given any influence over funding and the use of funds. It must not be left to the industry to set up these organisations itself. In the AK’s view, the following principles are therefore essential and are missing from the current proposals:

- Regardless of whether one or more producer responsibility organisations exist in a Member State territory, all new organisations to be created should be in the hands of, or at least controlled by, a competent public body.
- The industry must not have a say in the distribution of funds, because otherwise the focus is on minimising costs for producers rather than on the ecological efficiency of wastewater treatment.
- Systems for collecting funds must be designed so that each producer receives a direct economic signal to avoid polluting substances. The less their products pollute the wastewater, the less they should have to pay.

Extended producer responsibility is already anchored in EU law in the Waste Management Directive. The idea is basically positive and is expressly welcomed by the AK, but previous experience and knowledge should not be disregarded in the implementation. “He who pays the piper calls the tune” – this is how extended producer responsibility in the waste industry can be described so far. This could possibly also become the case in the wastewater industry. According to Article 9 (4), producers should jointly manage their extended producer responsibility by joining a producer responsibility organisation and providing it with certain data and financial contributions on an annual basis. At present, it is not specifically ruled out that companies in producer responsibility organisations can have a say in how the financial contributions are used. Experience in the waste sector shows how important it is to ensure that the industry is not involved in the process surrounding the allocation of its financial contributions – and that the industry can dispose of them for a specific purpose.

Furthermore, it must be ensured that operators of wastewater treatment plants can actually access the funds at the time when investments need to be made. Then they would not have to worry about interim financing, and planning security would be guaranteed. In addition, Member States should ensure that the requirements for the quaternary treatment set out in Article 8 (1), (4) and (5), and the requirements for extended producer responsibility and extended producer responsibility organisations set out in Articles 9 and 10, are implemented at the same time. This is the only way in which the financing of the “quaternary treatment” can actually be ensured. Until the extended producer responsibility requirements of Articles 9 and 10 are fully implemented, wastewater treatment facilities are not required to fully implement quaternary treatment in accordance with Article 8.

3.5. Energy neutrality (Article 11)

Wastewater treatment requires a significant amount of energy. However, energy from wastewater can also be used, thus making an important contribution to climate neutrality and at the same time reducing the costs of ongoing operation. The AK supports the goals of the European Green Deal on climate change and thus all socially-balanced ways and means to create the climate and energy transition. It therefore also welcomes the proposal to achieve energy neutrality for wastewater plants by 2040. However, clear targets are also needed for greater energy efficiency and energy savings, right through to energy neutrality in all sectors, because the necessary climate and energy transition can only succeed if we join forces.

The project “E_OS – Energy_Optimisation Sludge Treatment” of the Viennese waste water treatment plant “Ebswien”, which is already climate neutral today, shows how energy neutrality of urban wastewater treatment plants can be achieved while at the same time making economic sense. By using the resulting sewage gas, all the energy required for wastewater treatment is generated on site. The system even produces excesses clean electricity and heat that are fed into the grids.

Whether energy neutrality can be achieved for all large and medium-sized wastewater plants by 2040 also depends on the framework conditions and how quickly renewable energy sources are expanded. Even though energy neutrality will reduce the costs of ongoing operations in the medium and long term, additional investment is necessary as a first step. In addition, further wastewater treatment (“quaternary treatment”) requires additional energy. Most wastewater facilities in Austria are in municipal hands. It is therefore also necessary to create corresponding budgetary leeway for the municipalities. The AK believes that sufficient subsidies for renewable energies and less strict budget rules to meet this challenge are sensible and urgently needed.

3.6. Access to sanitation (Articles 1 and 19)

Access to water and sanitation is a UN human right. The AK and the trade unions have been working together for the “human right to water” for many years. In the AK’s view, the EU institutions and the Member States have committed themselves to ensuring an adequate supply of drinking water and sanitation for all citizens at affordable prices. This demand is supported by more than 1.8 million European citizens who signed the European Citizens’ Initiative “Right2Water”. With the recast of the Drinking Water Directive, measures for improved access to drinking water for marginalised groups of people are being taken for the first time.

Now comes the next step: In future, Member States must take all necessary measures to improve access to sanitation for all, especially for vulnerable and marginalised groups. The groups of people who have had no or only limited access to sanitary facilities must be identified for this purpose by 31 December 2027. In particular, care must be taken to ensure a sufficient number of sanitary facilities in public spaces and free and safe access – especially for women – in all municipalities with more than 10,000 inhabitants.

The AK expressly welcomes this proposal. This should already be expressed more clearly in the objective of the Directive than is currently envisaged. Therefore, the AK proposes the following addition to Article 1: “It should also guarantee universal and affordable access to basic sanitation for all European citizens.” Improved

access to drinking water is also already included in the definition of objectives in the Drinking Water Directive.

3.7. Information to the public (Article 24)

The provision of information for consumers on the collection and treatment of municipal wastewater is generally welcomed. However, the AK wishes to point out that this information must be accessible to all and must not exclude any demographic groups. Therefore this information should not be published online only, as planned in the legislative proposal. In any case, other forms of notification should be used (e.g. via the water bill, a notice in the community, publication in the local newspaper, etc.), so that all consumers have access to this information. Furthermore it must be pointed out that the expense for small treatment companies - which do not generally have a website - to provide information online as a mandatory requirement is disproportionate and consumers would have to bear the cost. Against this background, it should also be possible to make this information available via a platform.

3.8. Access to justice (Article 25, new)

This new article implements the Aarhus Convention regarding access to justice. Both the 5th Conference of the Parties to the Aarhus Convention in Maastricht (2014), as well as the European Commission (reminder letter 2015), reproved Austria for not having implemented the Aarhus Convention satisfactorily regarding public involvement in environmental affairs. The inclusion of "access to justice", as decided in Aarhus, is positive for the interests of consumers.

3.9. Delegated acts

The proposal contains some guidance on delegated acts. In principle, the AK is critical of delegated acts from the point of view of democratic policy. As much as possible should already be regulated in the Directive itself; subsequent clarifications should be avoided as far as possible. For example, the Commission wants to set the reuse and recycling rates (Article 20) for phosphorus and nitrogen in delegated acts. From the point of view of the AK, this should not be left to the Commission; rather, it should already be specified in the Directive itself.



Conatct us!

In Vienna:

Iris Strutzmann

T +43 (1) 501 65 12167

iris.strutzmann@akwien.at

In Brussels:

Florian Wukovitsch

T +32 (0) 2 230 62 54

florian.wukovitsch@akeuropa.eu

Austrian Federal Chamber of Labour

Prinz-Eugen-Straße 20-22

1040 Wien, Österreich

T +43 (0) 1 501 65-0

www.arbeiterkammer.at

AK EUROPA

Permanent Representation of Austria to the EU

Avenue de Cortenberg 30

1040 Brussels, Belgium

T +32 (0) 2 230 62 54

www.akeuropa.eu

About Us

The Austrian Federal Chamber of Labour (AK) is by law representing the interests of about 3.8 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore, the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant Information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels