



8.10.2024

NOTICE TO MEMBERS

Subject: Petition No 0307/2024 by B. Q. M. (Spanish), on behalf of ‘Nuevo Amanecer Centro de Ayuda Social’, on a recycling plant polluting the neighbourhood in Paracuellos de Jarama, Spain

1. Summary of petition

The petitioner states that in 2019, a recycling plant (scrap metal) was set up just a few metres from their social centre and the adjoining houses. The petitioner explains that this industry handles all types of metals (lead, copper, iron, aluminium, cadmium, etc.) as well as paper, glass, fabrics, etc., generating allegedly a large daily cloud of metal dust that pollutes the whole area, and which is causing serious effects on the health of the people who live or work in their premises. According to the petitioner, reports and medical tests for metal poisoning indicate this. In addition to this, the petitioner is concerned that the water from the well used in the centre could be contaminated, as the results of the tests indicate concentrations of metals that did not exist before. The petitioner denounces that they have been complaining for five years to all the competent authorities: City Council of Paracuellos de Jarama, Madrid Regional Government, Civil Guard and even the Ombudsman, without success. Currently, they continue to operate, and handle a greater volume of scrap metal. The petitioner states all the alleged damage caused by this plant: air pollution, possible groundwater pollution, waste and landfill, risk of fire and noise pollution. The petitioner requests that the European institutions take measures against this recycling plant.

2. Admissibility

Declared admissible on 11 June 2024. Information requested from Commission under Rule 233(5).

3. Commission reply, received on 8 October 2024

a. Water Framework Directive

In line with Article 4(1) of the Water Framework Directive (WFD)¹, Member States must ensure that all water bodies comply, at the latest by 2027 provided that certain conditions are met, with a set of environmental objectives, including that all groundwater bodies achieve a good chemical status and their status is not deteriorated. The Groundwater Directive² requires Member States to set national threshold values for the pollutants listed in Part B Annex II, including arsenic. This is essential to assess the chemical status of groundwater bodies and devise the most appropriate technical measures to achieve the Directive's objectives.

According to the Spanish authorities in charge of the Tagus River Basin District (ES030), the area of Paracuellos de Jarama is located above the edges of 2 groundwater bodies (GWB), i.e. Guadalajara GWB (ES030MSBT030.006) and Alluvial Deposits of River Jarama Section Guadalajara-Madrid GWB (ES030MSBT030.024). In the 2nd River Basin Management Plan (RBMP) covering the period 2016-2021, the GWB Guadalajara was in poor chemical status and Spain invoked an exemption to achieve the environmental objectives for reasons of technical feasibility. Alluvial Deposits of River Jarama Section Guadalajara-Madrid was considered to be in good chemical status. A preliminary assessment of the 3rd River Basin Management Plans (RBMPs) of the river Tagus for the period 2022-2027 indicates that although both GWBs are currently in good chemical status, they are considered to be at risk due to chemical pollution. Nevertheless, the 3rd RBMPs indicates that the level of arsenic for the period 2018-2019 is well under the threshold value (0.19 mg/l). Unfortunately, no data has been provided after 2019 so the Commission cannot access to a more recent status of the relevant water bodies.

b. Waste Framework Directive

Article 13 of the Waste Framework Directive³ requires Member States to take the necessary measures to ensure that waste management is carried out without endangering human health, without harming the environment and, in particular (a) without risk to water, air, soil, plants or animals; (b) without causing a nuisance through noise or odours; and (c) without adversely affecting the countryside or places of special interest. Further, a permit from the competent authority is required to carry out any type of waste management activity, including recycling, in accordance with Article 23-26 of the Waste Framework Directive. Specific rules apply to the landfilling of waste under the Landfill Directive.⁴

c. Air Quality

The Commission closely monitors the implementation of the Ambient Air Quality Directives. If persistent and structural breaches of air quality standards occur, they are followed up, including through infringement procedures. The aim is to ensure that adequate measures are

¹ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, *OJ L 327*, 22.12.2000, p. 1–73. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0060>

² Directive 2006/118/EC of 12 December 2006 on the protection of groundwater against pollution and deterioration, *OJ L 372*, 27.12.2006, p.19. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32006L0118&qid=1719834237390>

³ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, as amended, in consolidated version, *OJ L 312* 22.11.2008, p. 3, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008L0098-20180705>

⁴ Directive 1999/33/EC of 26 April 1999 on the landfill of waste, as amended, in consolidated version, *OJ L 182* 16.7.1999, p. 1, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01999L0031-20180704>

put in place by the relevant Member States to achieve compliance.

The municipality of Paracuellos del Jarama is part of the air quality zone Madrid (ES1301). The closest air quality monitoring stations are about 4 km southwest and about 8 km southeast of the area in question. During the years 2020-2022 (the last three years for which validated data is available), the Spanish authorities have reported exceedances of the annual mean limit value (in 2020 and 2021) and the hourly limit value (in 2019) for nitrogen dioxide (NO₂) in the air quality zone Madrid (ES1301). However, with the exception of ozone, no exceedances of the limit values or target values of the Ambient Air Quality Directive⁵ for other pollutants covered by the Ambient Air Quality Directives have been reported since 2022. This includes also particulate matter (PM) which are at stake in the Petition.

The Commission has followed up on exceedances of NO₂ limit values in Spain with an infringement procedure⁶. The Court of Justice of the EU has delivered a judgement in this case on 22 December 2022⁷, finding that the Kingdom of Spain had not attained the annual and hourly limit values for NO₂, amongst others, in the air quality zone of Madrid, and had not taken sufficient measures to keep the period of exceedance as short as possible. The Commission will take all the necessary measures to ensure that Spain complies with this judgment in a timely and effective manner.

d. Industrial Emission Directive

The Industrial Emissions Directive (IED)⁸ regulates the environmental impacts of large industrial installations carrying out activities and exceeding a certain size described in Annex I of the IED. However, according to the information available in the European Industrial Emissions Portal⁹, the concerned installation is not covered by the IED.

Conclusion

Without prejudice to the Commission's role as Guardian of the Treaties, the primary responsibility for correctly implementing EU law and ensuring compliance of permits with EU law, lies with the Member States. Moreover, pursuant to the principle of effective judicial protection set out in the Treaty of the Union, Member States must grant the public access to rapid and effective redress mechanisms in the fields covered by EU law. In line with the strategic approach outlined in the 2016 Communication 'EU Law: Better results through better application'¹⁰, the Commission focuses its enforcement action on systemic breaches of EU law, rather than on individual instances of possible bad application. The Commission therefore considers that the use of the redress mechanisms available under Spanish law would be the most appropriate means for the petitioners to assert their claims in a satisfactory

⁵ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, as amended by Commission Directive (EU) 2015/1480, OJ L 152, 11.6.2008, p. 1–44

⁶ INFR(2015)2053

⁷ Case C-125/20, Judgment of the Court, 22 December 2022, European Commission v Kingdom of Spain, ECLI:EU:C:2022:1025

⁸ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (recast), OJ L 334, 17.12.2010, p. 17–119. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010L0075>

⁹ <https://industry.eea.europa.eu/>

¹⁰ OJ C 18, 19.1.2017, p. 10–20.

manner.