



Mr
Karmenu Vella
Commissioner for Environment, Maritime Affairs and Fisheries
European Commission
Rue de loi 200
1049 BRUXELLES

04 April 2019

Protection against nitrate pollution in Germany is insufficient and inadequate

Dear Commissioner,

We are a group of 12 associations and organisations, which have formed the German Nitrates Initiative with the mission to advocate for a water-friendly agricultural policy. Our goal is the adequate and sufficient implementation of the EU Nitrates Directive. As a response to the judgment of the Court of Justice of the European Union of 21 June 2018 (case C-543/16 Commission v Germany, infringement proceedings 2013/2199), the German Federal Government proposed, in a communication to the European Commission from the 31 January 2019, that it would amend the German Fertiliser Ordinance of 26 May 2017. By doing so, the German Federal Government confirmed the points of criticism and concern, which were previously raised by the Commission and the Court of Justice of the European Union. They indicated a lack of ambitious action for the full implementation of the EU Nitrates Directive. The Nitrates Action Group's points of criticism thus have been confirmed.

However, it is apparent upon initial examination that the proposed amendments of the German Fertiliser Ordinance are insufficient to effect a sustainable implementation of the EU Nitrates Directive. The following points, in particular, are not in line with the requirements of the EU Nitrates Directive:

- provisions on excessive fertilisation and losses during transport and spreading,
- setting “higher” nitrate limits in individual cases on a per farm basis in the Nutrient Flow Balance Ordinance,
- provisions on measures in areas vulnerable to nitrate pollution by way of the so-called *Länderklausel* (competence at Länder-level instead of federal level), which do not imply a uniform binding regulation for Germany,
- lack of provisions for the reduction of fertiliser application in the cultivation of vegetables (provisions are for arable land only),
- reduction of fertiliser application in nitrate-vulnerable areas by just 20% will be insufficient in many places,
- no consideration of chemical fertilisers,
- no provisions concerning transport of liquid manure,
- Requirements for nutrient flow balances only apply to around 10% of agricultural holdings.

In addition, there is an agricultural debate on whether the identification of nitrate-vulnerable zones is generally possible due to a lack of uniform European or German definitions. Consequently, the level of nitrates pollution in Germany will still not be satisfactory low.

Dear Commissioner,

From the perspective of our German Nitrates´ Initiative, the proposed amendments to the German Fertiliser Ordinance contain a number of serious shortcomings. We would therefore like to ask you to support the full implementation the EU Nitrates Directive for the protection of groundwater in Germany.

This will also require amendments to a number of national ordinances, which have so far undermined the EU Nitrates Directive, including the Fertiliser Application Ordinance, the Nutrient Flow Balance Ordinance and ordinances of the Länder which were following the Fertiliser Ordinance of 26 May 2017 and which have further undermined the requirements of the EU Nitrates Directive.

As the German Nitrates Initiative, we call for

- the identification and official declaration of nitrate-vulnerable areas without delay,
- publication of the decided measures to reduce nitrates pollution,
- a location-specific reduction for fertiliser application in areas vulnerable to nitrates pollution,
- mandatory nutrient flow balances for all agricultural operators,
- a binding European catalogue of measures to reduce “manure tourism”,

- enabling agricultural subsidies for measures to protect waters and the environment on an at least 5-year basis.

Special rules should apply to organic farming, if fertilization levels are already adequately low.

We would be pleased if you could take into account these crucial aspects and remain at your disposal for a meeting in Brussels with the aim of achieving a common strategy and solution for the protection of our groundwater resources.

Yours Sincerely,

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Executive Manager
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