



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT

The Director-General

Brussels,
ENV.D.1/

Graham Doyle
Secretary-General

Department of Housing, Local
Government and Heritage

Brendan Gleeson
Secretary-General

Department of Agriculture, Food
and the Marine

IRELAND

Subject: Implementation of the Nitrates Directive in Ireland

Dear Mr Doyle, dear Mr Gleeson,

I am writing in relation to the implementation of the Nitrates Directive ⁽¹⁾ and in particular the derogation decision for Ireland ⁽²⁾ adopted on 29 April 2022 pursuant to Annex III of the Nitrates Directive.

In the letter sent by Mr Humberto Delgado Rosa, Director for Biodiversity, on 25 June 2024, the Commission expressed concerns about the delay in the implementation of Article 12(3) of the derogation decision ⁽³⁾. As part of the two-year review, Article 12(3) included two conditions to be implemented as of 1 January 2024. As regards the reduction of the derogated amount in areas identified as polluted, at risk of pollution or showing worsening

⁽¹⁾ Council Directive of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC).

⁽²⁾ Commission Implementing Decision (EU) 2022/696 of 29 April 2022 granting a derogation requested by Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources.

⁽³⁾ *As from 1 January 2024, in areas draining into polluted or at-risk-of-pollution waters or presenting worsening trends, additional measures shall be applied under the Nitrates Action Programme. For farms that have been granted an authorisation pursuant to this Decision and located in such areas, the amount of manure that may be applied to the land shall not exceed 220 kg nitrogen/ha per year.*

trends, the Irish authorities explained that it is in force since 1 January 2024 (in compliance with the derogation decision). The second requirement of Article 12(3) relates to the adoption of the additional measures to re-enforce the Nitrates Action Programme in the identified areas.

These measures, which should have been in place in January 2024, were required to reinforce the measures in areas where pollution increased and to mitigate risks linked to the application of manure nitrogen above the 170 kg limit in the Nitrates Directive. The draft measures prepared by the Irish authorities concern in particular aspects such as the reduction of mineral fertilisation rates in intensive farms, the geographic extension of areas where the reduction of the derogation is applied and the review of excretion rates for young bovines. Some of these measures were explicitly designed to help farmers to comply with the expected reduction of the maximum applicable amount of manure nitrogen in 2024.

We welcome the efforts made by the Irish authorities to ensure extensive and structured engagement with relevant stakeholders to garner support to steer the process to improve water quality. During the visit to Ireland in September 2024, the Commission had the opportunity to witness the engagement of farmers towards improving water quality and received assurances that the measures would be adopted in November 2024. We learned with the same occasion that farmers had already been informed about the measures and that the adoption of the new measures would take place before the end of that year.

However, these measures have not been adopted in 2024 as planned. At technical level we have been informed that the measures would not be adopted before end of January 2025 as the public consultations on the required environmental assessments are still ongoing. We further took note that the strategic environmental assessment (environmental report ⁽⁴⁾) and the appropriate assessment (natura impact statement ⁽⁵⁾) in line with article 6(3) of the Habitats Directive ⁽⁶⁾ have raised doubts on the adequacy and sufficiency of the draft measures.

These successive delays have resulted in the granting of individual authorisations in 2024 without all the conditions being in place. Therefore, the lack of a timely adoption of the additional measures within the Nitrates Action Programme would constitute a breach of the derogation decision. The absence of additional measures could also raise doubts about the ability of the farmers to comply with the reduction of the maximum amount of manure nitrogen applicable.

I therefore urge the Irish authorities to put in place effective measures as soon as possible and provide information on how the reduction applied in 2024 has been complied with by farmers in the absence of the additional measures, as well as how the Irish competent authorities have verified compliance with this obligation.

These circumstances will need to be taken into account by the Commission in its assessment for maintaining the existing derogation and of any new derogation request.

⁽⁴⁾ The Environmental Report under Directive 2001/42/EC points to insufficient evidence on the effectiveness of the measures and that the approach could take years to deliver.

⁽⁵⁾ The report highlights that there is not enough evidence and that the additional measures could result in adverse effects on the integrity of European sites designated under the Habitats Directive.

⁽⁶⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

I would also like to draw your attention to the ongoing preliminary ruling case ⁽⁷⁾ on the links between the Nitrates Directive and other EU relevant legislation, namely the Habitats Directive, Water Framework Directive and the Strategic Environmental Assessment Directive ⁽⁸⁾, which will need to be taken into account in the assessment of any new derogation request.

I will be looking forward to receiving the above-mentioned information from the Irish authorities.

Yours sincerely,

Florika FINK-HOOIJER

⁽⁷⁾ Case C-531/24, *An Taisce: Reference for a preliminary ruling from High Court (Ireland) made on 1 August 2024 – An Taisce – The National Trust for Ireland v The Minister for Housing, Local Government and Heritage, Ireland, The Attorney General*. OJ C, C/2024/6412, 4.11.2024

⁽⁸⁾ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment OJ L 197, 21.7.2001, p. 30–37