



18.12.2023

## NOTICE TO MEMBERS

**Subject: Petition No 0275/2019, by Félix Lorenzo Donoso (Spanish), on behalf of the Almendralejo Platform against Pollution, on the quality of drinking water**

### 1. Summary of petition

The petitioner deplores Spain's persistent non-compliance with EU legislation concerning the quality of drinking water and the sewage treatment of wastewater.

### 2. Admissibility

Declared admissible on 26 June 2019. Information requested from Commission under Rule 227(6) (Former Rule 2016(6)).

### 3. Commission reply, received on 15 October 2019

#### The petition

The petitioner, on behalf of the Almendralejo platform against pollution, accuses Spain of having repeatedly failed to comply with European water quality standards. The petitioner is concerned about the pollution situation of the river Guadiana used for the abstraction of drinking water for Almendralejo. The petitioner contacted the Guadiana River Basin Authority (Confederación Hidrográfica del Guadiana, hereinafter CHG), and in absence of a reply thereafter the Spanish Ombudsman. In response to the Ombudsman intervention, CHG provided via the Ombudsman information about the pollution situation to the petitioner and explained how CHG tackles the issue. In further correspondence, the Ombudsman informed the petitioner about measures and projects taken by different authorities to improve the situation.

#### The Commission's observations

As regards EU legislation, under the Water Framework Directive<sup>1</sup> (WFD), Member States are required to identify the characteristics of each river basin district ('RBD'), i.e. the status of each water body located therein and the identification of pressures and resulting impacts on water bodies, including the identification of sources of pollutants. In accordance with Article 11 WFD, Member States must adopt and implement a programme of measures in each River Basin District to achieve the WFD environmental objectives, including measures to reduce or phase out emissions in order to meet the standards set in the Environmental Quality Standards Directive<sup>2</sup> (EQSD). The status of water bodies and the measures adopted to achieve the objectives of the directives have to be included in a River Basin Management Plan (RBMP), established for each river basin district in accordance with Article 13 WFD. The public has to be consulted on the draft plans, in accordance with Article 14 WFD. The plans have to be reported to the Commission and reviewed every 6 years.

The reported information on the concerned water bodies referred to by the petitioner is limited. For instance, the status of the Villalba de los Barros reservoir is unknown. The river Guadiana V is not in good status. Both water bodies are subject to exemptions to achieve environmental objectives, which the CHG foresees to achieve in 2022-2027 and 2016-2021 respectively. The CHG has ongoing measures to address point source and diffuse pollution among other pressures.

The Commission has conducted a general assessment of the second RBMPs according to the WFD, including the one for the Guadiana. The Commission published in February 2019 the corresponding Implementation Report<sup>3</sup> to the European Parliament and the Council, underpinned by assessments per Member State. The assessment for Spain<sup>4</sup> points to several pressures on water resources including point-source pollution. The assessment concludes that the Spanish authorities still need to improve the status of several water bodies and address existing pressures.

Through its general assessment, the Commission has recommended that Spanish authorities clearly describe how basic and supplementary measures will contribute to achieving the WFD objectives, and that sources of funding are identified to facilitate the successful implementation of these measures. The report also points to the need of increased transparency in the application of deadline exemptions to achieve environmental objectives and their justification.

As regards the Urban Waste Water Treatment Directive<sup>5</sup> (UWWTD), the Commission has launched several horizontal infringement cases against Spain for lack of compliance with their obligations under this Directive. The petitioner has provided a list of settlements (agglomerations), discharging their untreated waste waters into Guadiana River next to the drinking water catchment area of Almendralejo, the majority of very small size, except Don

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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.

2 Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council, *OJ L 348*, 24.12.2008, p. 84–97.

3 [http://ec.europa.eu/environment/water/water-framework/impl\\_reports.htm](http://ec.europa.eu/environment/water/water-framework/impl_reports.htm)

4 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=SWD:2019:42:FIN&qid=1551205988853&from=EN>

5 Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, *OJ L 135*, 30.5.1991, p. 40–52.

Benito-Villanueva (62 000 population) and Almendralejo (37 300 population). Both are included in one of the aforementioned infringement cases due to lack of compliance with their waste water treatment obligations. The remaining agglomerations in the list provided by the petitioner are all of small size. Seventeen of them, with a population of between 2 000 and 6 000, are part of another infringement case covering small agglomerations only. The remaining settlements/villages are not part of the list of agglomerations officially reported every 2 years by the Spanish authorities to the Commission, thus meaning that they likely have a population of below 2 000 and therefore are not covered by the obligations under this Directive.

Thus the Commission is closely following the pollution by urban waste water within the scope of the UWWTD by infringement cases, and will take adequate action to ensure the full implementation. The Commission already referred Spain a second time to the Court of Justice of the European Union for another horizontal infringement case regarding large agglomerations that were found in non-compliance with the UWWTD some years ago, and for which Spain is currently paying fines. The above-mentioned two infringement cases, in which many of the agglomerations indicated by the petitioner are included, would follow the same procedure if Spain does not solve the situation in due time.

As regards the Drinking Water Directive<sup>6</sup> (DWD), Member States shall take the measures necessary to ensure that “water intended for human consumption” is wholesome and clean. Water intended for human consumption is defined as water either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and how it is supplied. The quality standards set in the Directive shall be complied with at the point at which it emerges from the taps that are normally used for human consumption. This means that the quality standards do not apply to raw water (called “pre-potable” in this petition) for the abstraction of drinking water.

### Conclusion

The responsibility for the implementation of EU environmental legislation lies with the Member States. Thus, it is for the Spanish competent authorities to determine the measures needed to ensure that environmental objectives are met and not compromised by pollution and to fulfil the obligations of *inter alia* the WFD, the EQSD, the UWWTD, and DWD.

Some of the issues raised by the petitioner are already part of ongoing infringement cases (i.e. lack of compliance with waste water treatment obligations) and therefore followed up closely.

As EU drinking water quality standards do not apply to surface waters intended to be abstracted but only after abstraction and treatment, no breach of the DWD can be determined.

The CHG seems to be aware of existing quality problems for the reservoir and the river, as it envisages measures and further investigations. The Commission considers that time is needed to ascertain whether the measures envisaged by the authorities in the updated Guadiana RBMP are adequate to meet the requirements of Union environmental law and in particular of the WFD.

Nevertheless, the Commission will, if necessary, take action to ensure that the Spanish national

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<sup>6</sup> Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, *OJ L 330, 5.12.1998, p. 32–54*.

and regional authorities take the necessary steps to protect waters against pollution.

#### 4. Commission reply (REV), received on 18 December 2023

As regards EU legislation, under the Water Framework Directive<sup>7</sup> (WFD), Member States are required to identify the characteristics of each river basin district ('RBD'), i.e. the status of each water body located therein and the identification of pressures and resulting impacts on water bodies, including the identification of sources of pollutants. In accordance with Article 11 WFD, Member States must adopt and implement a programme of measures in each River Basin District to achieve the WFD environmental objectives, including measures to reduce or phase out emissions in order to meet the standards set in the Environmental Quality Standards Directive<sup>8</sup> (EQSD). The status of water bodies and the measures adopted to achieve the objectives of the directives have to be included in a River Basin Management Plan (RBMP), established for each river basin district in accordance with Article 13 WFD. The public has to be consulted on the draft plans, in accordance with Article 14 WFD. The plans have to be reported to the Commission and reviewed every 6 years.

The Commission services have recently received the 3rd River Basin Management Plan of the river Guadiana according to the WFD and its corresponding assessment will also consider the impact of waste water discharges and the liability of Spain for applying the programmes of measures. A preliminary assessment indicates that the global status of: i) the Villalba de los Barros reservoir (Code of the water body ES040MSPF004000240) is good; river Guadiana V B (Code of the water body ES040MSPF00013355B) is less than good and Alange reservoir (Code of the water body ES040MSPF000206590) is good. The river Guadiana V B water body is subject to exemptions to achieve environmental objectives and the CHG foresees to achieve in 2027 good status. Besides, regarding river Guadiana V B and Alange reservoir, the CHG has ongoing additional programmes for control of water intended for the production of drinking water.

By mid-2024, the Commission will present a Report to the Council and the Parliament together with a Country Specific Report for Spain, including a general assessment of the 3rd River Basin Management Plans (RBMPs) according to the Water Framework Directive (WFD), comprising the Guadiana river basin. Such an assessment for Spain aims to identify existing pressures on water resources, including from various pollution sources, and issue recommendations for the Spanish authorities to improve the status of water bodies.

As regards the Urban Waste Water Treatment Directive<sup>9</sup> (UWWTD), the Commission has launched several horizontal infringement cases against Spain for lack of compliance with their obligations under this Directive. The petitioner has provided a list of settlements (agglomerations), discharging their untreated waste waters into Guadiana River next to the drinking water catchment area of Almendralejo, the majority of very small size. Don Benito-

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Villanueva (62 000 population) and Almendralejo (37 300 population). Don Benito-Villanueva is included in the infringement case C-433/23 (at the Court) for non-compliance at treatment and monitoring level.. The other agglomerations in the list provided by the petitioner are all small size. Thirteen of them, with a population of between 2 000 and 6 000, are part of another infringement case covering small agglomerations only, which is at the stage of Reasoned Opinion, and remain being investigated by the Commission. Out of the total, the remaining settlements/villages were found either in compliance with their obligations under the UWWTD, either were not part of the list of agglomerations officially reported every 2 years by the Spanish authorities to the Commission, (in this particular case meaning that they likely have a population of below 2 000 and therefore are not covered by the obligations under this Directive).

Thus, the Commission is closely following the pollution by urban waste water within the scope of the UWWTD by infringement cases, and will take adequate action to ensure the full implementation. The Commission already referred Spain a second time to the Court of Justice of the European Union for another horizontal infringement case regarding large agglomerations that were found in non-compliance with the UWWTD some years ago, and for which Spain is currently paying fines. The above-mentioned two infringement cases, in which many of the agglomerations indicated by the petitioner are included, would follow the same procedure if Spain does not solve the situation in due time.

As regards the Drinking Water Directive<sup>10</sup> (DWD), Member States shall take the measures necessary to ensure that “water intended for human consumption” is wholesome and clean. Water intended for human consumption is defined as water either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and how it is supplied. The quality standards set in the Directive shall be complied with at the point at which it emerges from the taps that are normally used for human consumption. This means that the quality standards do not apply to raw water (called “pre-potable” in this petition) for the abstraction of drinking water.

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