



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
Quality of Life
The Director

Brussels, 9 November 2020
ENV.C.1/CF

Dear Petitioners,

Thank you for your petition on the planned construction of a factory by the Tesla Manufacturing Brandenburg SE in the Grünheide Erkner area which, according to the petition, might impact one or more water bodies used for the abstraction of water intended for human consumption. Commissioner Sinkevičius asked me to respond on his behalf.

The Water Framework Directive (WFD)¹ requires Member States to ensure good ecological status or good ecological potential in surface waters and good quantitative status and good chemical status in groundwater bodies. For bodies used for the abstraction of drinking water, Member States shall ensure the necessary protection with a view to avoid deterioration in their quality and thereby reduce the level of purification treatment required for the purpose of producing drinking water.

Where a new project could entail deterioration of good status or compromise the achievement of good status of the water body it relates to, it can be authorised only if the conditions outlined in Article 4(7) of the WFD are met. For more information on the process, I would like to draw your attention to the Guidance which has been developed under the so-called ‘Common Implementation Strategy’ (CIS) in the framework of the Water Framework Directive².

Industrial projects, including installations for the manufacturing of motor vehicles, may also be subject to an impact assessment procedure where so required under the

¹ Directive 2000/60/EU 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).

²https://circabc.europa.eu/sd/a/e0352ec3-9f3b-4d91-bdbb-939185be3e89/CIS_Guidance_Article_4_7_FINAL.PDF

Environmental Impact Assessment Directive³ as well as assessments required under Article 6(3) and (4) of the Habitats Directive⁴. For projects subject to an assessment under the Environmental Impact Assessment Directive, Member States must ensure that the public concerned is given the opportunity to express an opinion before the project is authorized and that the result of such consultations be duly taken into account in the development consent procedure. For projects covered by an assessment under both the EIA Directive and the WFD, the public consultation may be coordinated. For projects not subject to an environmental impact assessment under the EIA Directive, public participation should be assured through the inclusion of important projects expected to have impacts on water quality/quantity within the so-called River Basin Management Plans, which Member States have to adopt every 6 years⁵ in accordance with the WFD.

The next cycle of RBMPs are due by end of 2021 and the public consultation process should start by end of this year. In principle, the next RBMP of the relevant River Basin District should also refer to the planned project, its likely impacts on the objectives under the WFD and other relevant directives, and the mitigation measures planned to avoid deterioration.

The consultation processes outlined above are likely the best option for you to formulate your concerns vis-à-vis the competent German authorities. Indeed, Member States have the primary responsibility for correctly applying and implementing EU law. At the same time, in its role as Guardian of the Treaty and in line with the policy approach outlined in the 2016 Communication '*EU Law: Better results through better application*'⁶, the Commission may consider further action, as appropriate, should evidence gathered by you point to an actual and systematic breach of relevant EU law.

We hope this information is helpful.

Yours sincerely,

Veronica MANFREDI
(e-signed)

³ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, OJ L 26, 28.1.2012.

⁴ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206 22.7.1992.

⁵ As required by Article 13 WFD.

⁶ OJ C 18, 19.1.2017.