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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

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Subject: Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste

- Policy debate

1. On 5 April 2022, the European Commission adopted a proposal to revise the Industrial Emissions Directive. As the EU's main tool for controlling emissions from industrial installations, the IED is an important element of the Green Deal initiative. That same day, the Commission adopted the proposal for a Regulation on reporting of environmental data from industrial installations and establishing an Industrial Emissions Portal.

2. On 26 June 2022, the Commission presented the two proposals to the Environment Council, the leading Council formation. On 26 September, the Commission presented the proposals under “Any other business” in the Agricultural Council, giving Ministers the opportunity to express views on the agricultural aspects of the proposals.
 3. Starting under the French Presidency and continuing under the Czech Presidency, the Council’s preparatory bodies have met to examine the proposals further.
 4. In order to guide the Policy debate on the aspects of the Industrial Emissions Directive related to agriculture and penalties at the forthcoming meeting of the Council (Environment) on 24 October 2022, the Presidency has drawn up a background note with two questions as set out in the Annex to this document.
 5. The Permanent Representatives Committee is invited to take note of the Presidency background note and the questions and to forward them to the Council for the abovementioned policy debate.
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Council meeting of Environment Ministers

24 October 2022

- Policy debate -

Industrial Emissions Directive (IED)

Presidency Background Paper with Questions for Ministers

Directive 2010/75/EU on industrial emissions is the main European regulatory instrument in the field of industrial pollution. The basic principle is the implementation of the best available techniques. Accordingly, the Directive addresses, on the one hand, the operational permitting of the defined industrial and agricultural activities at the national level and, on the other hand, the development of the key foundations for permitting and emission limits setting – reference documents and conclusions on the best available techniques. Within the European Union, around 52 000 installations are regulated by the Industrial Emissions Directive, of which about 39% are industrial farms. The new proposal both modifies the existing rules for the permitting regime and extends the scope to new activities, including in the area of agriculture.

The intention of the Presidency was, in the first step, to allow for a maximum understanding of all the proposed changes and their impact on the sectors concerned. Based on the discussions held at the technical level, the Presidency is now of the view that in order to move forward with the proposal, the Council should provide political guidance for the direction of the work on two essential areas: changes to the regulation of installations in the agricultural sector and the setup of the penalties and compensations.

Agriculture

Pig and poultry farming activities are the largest sectors currently covered by the Directive. However, such farms represent only a minor part of the EU's overall livestock sector, which in turn limits the Directive's ability to drive the necessary reduction of methane and ammonia emissions stemming, amongst others, from cattle farming. At the same time, livestock farming is a key component of the EU's food security and its greening is key to enhancing its resilience.

Livestock rearing is also a key sector in relation to the objectives of the European Green Deal and the methane strategy, as it is responsible for over half of the EU's overall emissions of methane and two-thirds of emissions of ammonia.

Following an impact assessment, a new Chapter VIa has been proposed to be introduced to the Directive. If adopted, this Chapter would lead to a considerable increase in the number of livestock installations falling within the scope of the Directive. This would be compensated for via the introduction of a simplified permitting/registration regime for such farms including simpler reporting, inspection and other obligations for both operators and national competent authorities. The discussion within the Council has raised concerns as to whether the proposal as it stands strikes an optimal balance between costs and benefits.

Penalties and Compensations

The proposal introduces more detailed rules on penalties. This has been done with the intention of achieving a higher level of protection of human health and the environment taken as a whole. In particular, the new penalties are proposed to be proportionate to the gravity of the possible infringements of the national provisions adopted under the Directive.

Additionally, a requirement for compensation in the event of health damage caused by the operator failing to comply with the national rules in place to implement the Directive is introduced. This includes possible impacts on human health and reparation for the damage caused.

Summary and questions

The Presidency believes that a policy debate within the Council will enable the Member States to steer the discussions in the Council on these two important elements of the proposal. Therefore, the Presidency invites Ministers to respond to the questions below:

1. *Do you agree with the level of environmental ambition of the proposal in the area of livestock farming, where the enlargement of scope is accompanied by a simplified permitting/registration regime for relevant activities?*

 2. *Should the Directive introduce common proportionality parameters for setting penalties and facilitating compensation of health damage, or do you consider it more appropriate to leave this area to the Member States?*
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