

POSITION PAPER

on the proposal for a Directive of the European Parliament and of the Council concerning Urban Wastewater Treatment (recast) (26/10/2022, COM(2022) 541 final)

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The German Association of Local Public Utilities „Verband kommunaler Unternehmen“ (VKU) represents around 1,500 local public utilities in Germany, operating in the sectors of energy, water/waste water, waste management and telecommunication. In 2019, VKU's members, which have more than 283,000 employees, generated a turnover of around 123 billion euro of which more than 13 billion euro were reinvested. In the end-customer segment, VKU's member companies have a market share of 62 percent in the electricity market, 67 percent in the natural gas market, 91 percent in the drinking water sector, 79 percent in heating supply market and 45 percent in wastewater disposal. Every day, they dispose of 31,500 tons of municipal waste through separate collection and take a vital role in ensuring recycling rates of 67 percent, which rate the highest within the EU. Additionally, more and more local public utilities are committed to the deployment of broadband infrastructure. 203 members invest more than 700 million euro every year. When deploying broadband infrastructure, 92 percent of local public utilities rely at least on fibre to the building. We keep Germany running - climate-neutral, efficient, liveable. Our contribution for today and tomorrow: #Daseinsvorsorge. Our positions: 2030plus.vku.de.

Verband kommunaler Unternehmen e.V. · Invalidenstraße 91 · 10115 Berlin
Phone +49 30 58580-0 · Fax +49 30 58580-100 · info@vku.de · www.vku.de

VKU agrees to a publication of the position paper (on the Internet), including the personal details.

VKU's main positions

The core positions of the German Association of Local Public Utilities (VKU; Verband kommunaler Unternehmen) include the following:

- › VKU calls for a clear change of the proposal regarding the extensive **expansion of urban wastewater treatment plants with quaternary treatment**. Thereby, it must be ensured that the proposal is designed according to the situation on the ground and that it gives the operators the necessary planning and investment certainty. It is completely unrealistic to consider that the proposed deadlines could be met even approximately, given the periods of time that are currently necessary for planning and for approvals in particular.
- › With a **threshold of 10.000 p.e.**, a total of more than 2.000 urban wastewater treatment plants in Germany would be affected by the stricter provisions for wastewater treatment. We therefore plead for the threshold to be set at 100.000 p.e. or 50.000 p.e. and for the introduction of a gradual relevance assessment for the plants in this category.
- › Furthermore, the provisions for the **reduction of nitrogen and phosphorus** require technical adjustments in the urban wastewater treatment plants, among other things. This would imply not only a financial burden but also a problem regarding compliance with the specified deadlines for implementation.
- › The Commission's proposal to hold **producers of products causing water pollution accountable and financially responsible through extended producer responsibility (EPR) is a significant paradigm shift in European water policy. This shift is overdue** and follows up on an urgent and long-standing request of the local public wastewater treatment sector. The extended producer responsibility is an essential pillar of the whole proposal and a necessary condition for its successful implementation. EPR delivers an **indispensable financial contribution, particularly for the implementation of the new provisions for quaternary treatment**. From the perspective of the local public wastewater sector, this central environmental innovation must not be diluted in the upcoming discussions on the ERP's practical implementation.
- › VKU generally welcomes the Commission's intention to address climate adaptation with a coherent approach. The **limitation of the combined sewer overflows to a percentage of the load calculated in dry weather conditions** is however not feasible and is to be rejected, as rainwater is subject to considerable variations in quantity and composition as well as in its localisation and distribution over time.
- › The objective of **energy neutrality** is not considered realistic – neither regarding the content nor the deadline, especially with the stipulations on technological development (improved tertiary treatment and extension to quaternary treatment etc.). Instead of the proposed energy neutrality, the objective should be a balanced climate footprint through energy-efficient operation and the use of energy from renewable sources.
- › VKU supports the general objective of informing the public about the significance of urban wastewater management and the services performed in a

targeted manner. The extent of the information to be provided according to Annex VI is, however, far too large and should be considerably reduced. The information provided should be tailored to the specific interests of consumers regarding their wastewater services and focus on those categories/pieces of information that deliver a **clear value added**. In this context, the principle of **proportionality** has to be met and a **sufficient period of time** be ensured for preparing the provision of information.

- From VKU's point of view, it is also problematic that the revision of the directive includes various **delegated acts** to supplement or amend certain provisions. These retrospective individual amendments could lead to the loss of both planning, investment and legal certainty for the operators. We reject them in particular regarding the removal of micro-pollutants and phosphorus recovery.

VKU's positions in detail

The current Directive concerning urban wastewater treatment (91/271/EC, Urban Wastewater Treatment Directive, UWWTD) contains provisions on the collection, treatment and discharge of urban wastewater from certain industry branches. The collection, discharge and treatment of domestic and certain industrial wastewaters was clearly improved through the introduction of this Directive, leading to a **significant improvement in the water quality in the EU**. The proposed adjustments by the European Commission to the Urban Wastewater Treatment Directive and the included minimum requirements at EU level support the objectives of the “Zero Pollution Action Plan” of the Green Deal.

Therefore, VKU generally welcomes the initiative of the Commission to update the UWWTD in the context of intensifying problems related to climate change and the associated challenges for water management. With the **Green Deal**, for the first time, the Commission has presented an integrated approach to address climate and environment challenges in Europe. VKU explicitly welcomes the objective of holistically addressing water, soil and air pollution with the **Zero Pollution Action Plan** and of avoiding or reducing pollution at the source by enshrining the precautionary principle and the ‘polluter pays’ principle. VKU supports that the zero pollution target is to have a central position in the Green Deal: A significant reduction of the discharge of pollution into the environment can only be implemented horizontally. In this context, a close linkage with the Water Framework Directive and its daughter directives is also particularly necessary as well as with the provisions for the authorisation and placing on the EU market of products and chemicals.

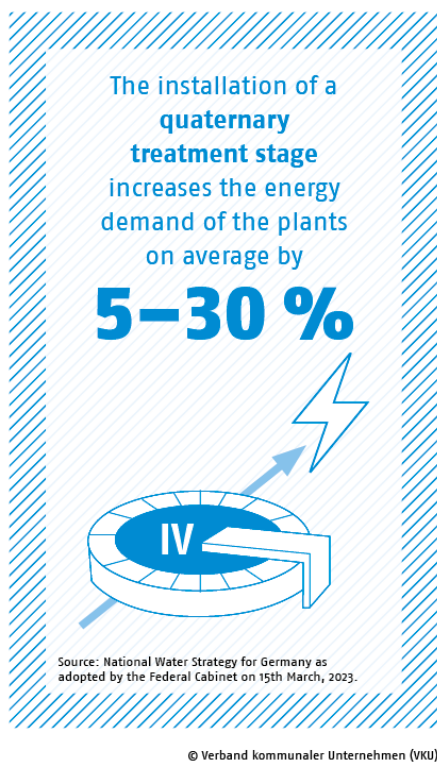
VKU therefore explicitly welcomes the long-awaited paradigm shift that the Commission is now implementing by **anchoring an extended producer responsibility**. Producers of products and those causing pollution discharges should share the financial burden, to start with, and be incentivised to avoid pollution. This could clearly improve waters being protected from pollution: From VKU’s point of view, it is significantly better – both from an ecological and economic standpoint – to avoid pollution at the source or at least reduce discharges before they enter the water body instead of reducing highly diluted pollutants later with technically expensive processes. This has been the case until now. In this context, it will be important that the zero pollution target and this paradigm shift are also taken up in all other European policy areas as a guideline in the future when considering pollution, and that the instrument of producer responsibility is consistently applied. This concerns, for example, the implementation of the EU Strategy on Pharmaceuticals in the Environment and the use and authorisation of chemicals and pesticides. Other initiatives of the Green Deal should also contribute to the zero pollution target. **From the point of view of the urban wastewater treatment sector, anchoring an extended producer responsibility is therefore an essential pillar of the Commission’s proposal.** It is the prerequisite for the connected requirements for further wastewater treatment (quaternary treatment) and their financial feasibility. This fundamental decision to hold those causing water pollution accountable and **financially responsible** through EPR in order to create incentives for sustainable actions must absolutely be abided by in all discussions concerning concrete implementation. In fact, all relevant substances and all producers must be held accountable. So far, only two substance groups are proposed.

VKU also calls for a clear change of the proposal regarding the extensive establishment of **quaternary treatment** in urban wastewater treatment plants. Thereby, it must be ensured that the proposal is **designed according to the situation on the ground** and that it gives the operators the necessary **planning and investment certainty**. It is completely unrealistic to consider that the proposed deadlines could be met even approximately, given the periods of time that are currently necessary for planning and for approvals in particular. Larger treatment plants are all subject to an environmental impact assessment or pre-assessment, which already take a long time for handing out the documents. This particularly applies when the treatment plant is in an area of nature-protection relevance, such as protected zones, Natura 2000 etc. Furthermore, the processing times of the authorities are already longer than is tolerable, as there is a massive staff shortage in the authorities with no improvement in sight. Approval periods of 10 years and more for the upgrade of treatment plants are therefore to be expected.

With regard to the upgrade of plants between 10.000 and 100.000 p.e., it must be said that the **limit of 10.000 p.e. would represent a significant challenge for many plant operators**, also regarding the achievement of the goals in the context of the proposed deadlines. The limit of 10.000 p.e. is also very low in view of effectiveness for lower water pollution loads. In rural areas in particular, there are weak receiving water bodies, mostly third-order bodies of water with low water levels, which can also approach zero following climate change. Unfortunately, due to the worsening conditions in the receiving water bodies in summer, the ratio of receiving water to cleaned wastewater discharge is continually decreasing. In total, more than 2.000 treatment plants in Germany would be affected by the stricter provisions for wastewater treatment. We therefore plead for the **threshold to be set at 100.000 p.e. or 50.000 p.e.** and for the introduction of a gradual relevance assessment for the plants in this category.

Furthermore, the **provisions for the reduction of nitrogen and phosphorus** require technical adjustments in the sewage treatment plants, among other things, which represents a financial burden and a problem regarding compliance with the specified implementation deadlines.

VKU generally welcomes the Commission's intention to address climate adaptation with a coherent approach. It is positive that the directive also takes up green and blue measures, linked to the Strategy on Adaption to Climate Change. **Fixed emission and quantity thresholds regarding rainwater (limitation of combined sewer overflows to 1 percent of the load calculated in dry weather conditions) are however not feasible and are to be rejected**, as rainwater is subject to considerable variations in quantity and composition as well as in its localisation and distribution over time.



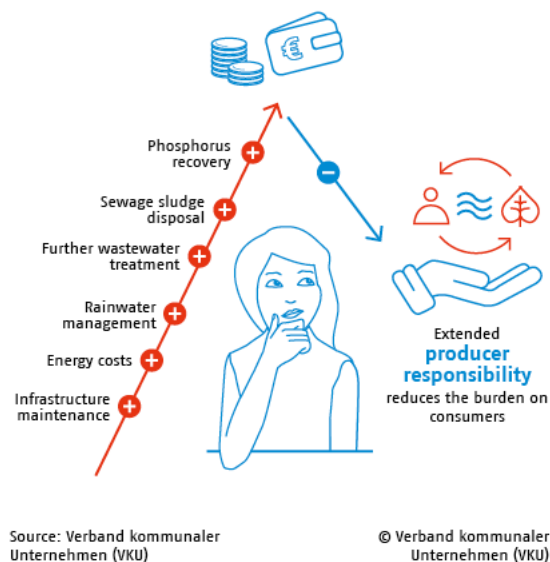
The objective of **energy neutrality** is not considered realistic – neither regarding the content nor the deadline, especially with the stipulations on technological development (improved tertiary treatment and extension to quaternary treatment etc.). Instead of the proposed energy neutrality, the objective should be a balanced climate footprint through energy-efficient operation and the use of energy from renewable sources.

From VKU's point of view, the revision of the UWWTD generally supports the **harmonisation of wastewater treatment standards**. It is however problematic that the revision foresees various **delegated acts** to supplement or amend certain provisions. These retrospective individual amendments could lead to the loss of both planning, investment and legal certainty for the operators. We reject them in particular regarding the removal of micro-pollutants and phos-

phorus recovery as the related substance-specific processes are very energy-intensive and should not be operated redundantly.

In light of the further legislative process and the necessity of implementing the directive at national level, the **deadlines proposed are overly ambitious and not feasible for the many investment measures to be implemented in total**. Therefore, it is absolutely necessary to adjust these deadlines according to the situation on the ground. The upgrade of a treatment plant and the associated time for obtaining the necessary approval and permissions for discharge into the receiving water bodies can currently take ten to fifteen years.

Easing the burden can only be achieved through the introduction of extended producer responsibility



All in all, it must be ensured that the revision does not lead to obligatory measures that are economically disproportionate, particularly regarding the management of rainwaters and urban wastewater treatment. The Commission's proposal contains a whole set of new requirements, from further wastewater treatment and rainwater management as well as the treatment of sewage sludge and phosphorus recovery to energy neutrality and energy efficiency, wastewater monitoring and the maintenance of infrastructure. Not only in sum but also by themselves would these measures lead to an increase in costs.

In the overall assessment of the proposal, it is important not to lose sight of the **financial burden for the wastewater customers** resulting from the provisions. The wider framework conditions and challenges faced by the wastewater treatment sector must be taken into consideration.

In the proposal, the Commission expects the provisions to cause an average increase in water tariffs of 2.3 percent at EU level. This can only represent a realistic corridor if an **effective financing contribution is reached through the extended producer responsibility**.

At the same time, it must not be forgotten that the wastewater treatment sector is already confronted with significant cost increases in the context of the current overlapping crises (i.e. increase in construction costs, general inflation with effects on price indexes, material bottlenecks etc.), which clearly affect the provision of these central services of general interest. The Commission's *Impact Assessment* was performed before these developments and must therefore be reviewed.

On Article 1 – Subject matter

VKU's position:

While the Commission proposes to extend the objective of the Directive from environmental protection to the protection of human health, the reduction of greenhouse gas emissions, improving the energy balance of urban wastewater collection, access to sani-

tation, the transparency of the sector and the regular surveillance of public health relevant parameters, **the improvement in water quality should remain the primary objective of the Directive**. In parallel, the climate neutrality target must be linked to the European water protection objectives.

Justification:

In general, the UWWTD has proven to have been successful. The connection to the sewage system and the development of wastewater treatment have led to a significant improvement in water quality in the EU. Yet, the degree of connection and the elimination capacity of the wastewater sector vary across the member states. It is therefore all the more important to continue to guarantee its success by adhering to its primary goal of reducing water pollution from wastewater discharges to the largest extent possible. This requires a close linkage of the climate neutrality target with the European water protection objectives. Further requirements of the wastewater treatment process, such as the energy neutrality and energy efficiency of the plants, must not endanger these objectives. In parallel, retrospectively added stricter requirements of the treatment process, particularly regarding nutrient removal, and the introduction of additional quaternary treatment will have significant effects on the energy requirements of the plants. This is why it is so important that the extension of the objective to climate protection does not lead to counteracting the Directive's primary objective.

The proposals related to the extension of the scope and the increase of the requirements for treatment plants will significantly intensify the situation for all areas of the wastewater treatment sector and will require some operators to establish new areas of activity. The implementation will also result in a considerable increase in investment costs and operational expenditure, which will have repercussions on wastewater charges.

On Article 5 and Annex V – Integrated urban wastewater management plans

VKU's position:

VKU generally welcomes the Commission's intention to address climate adaptation with a coherent approach. It is positive that the directive also takes up green and blue measures, linked to the Strategy on Adaption to Climate Change. **Fixed emission and quantity thresholds regarding rainwater (limitation of combined sewer overflows to 1 percent of the load calculated in dry weather conditions) are however not feasible and are to be rejected**, as rainwater is subject to considerable variations in quantity and composition as well as in its localisation and distribution over time.

Justification:

The wastewater management infrastructure must be designed in a future-proof way, and yet remain affordable. The climate-robustness of wastewater management must be assessed, and adjustment measures must be supported by funding. Integrated urban wastewater management plans can contribute to a **better planning and justification of requirements that need to be implemented**, particularly when measures must be made verifiable and measurable. They can also contribute to a **better interconnection between urban planning and the wastewater treatment sector**. In particular the problem of surface area dissociation and availability for a necessary treatment of loaded rainwater can

in most cases only be solved together by the wastewater treatment operator and those responsible for urban and construction planning.

Yet, VKU objects to the proposal that **no more than 1 percent of the dry weather load is to be discharged from combined sewers**, by the end of 2035 for plants of more than 100.000 p.e. and by the end of 2040 for plants of more than 10.000 p.e. that fulfil the criteria defined in Article 5. A fundamental reduction of drainage and untreated discharges is of course expressly welcomed. A direct implementation as a limit value would however lead to an immense and disproportionate increase in costs, and the **operation of a combined sewer system would no longer be possible under these strict conditions**. Furthermore, the risk of flooding would rise with increasing retention, especially in the event of heavy rain. The technical feasibility of the measures is therefore not realistic. The energy consumption would also increase considerably due to the additional water volumes to be treated. In addition, the treatment processes at the treatment plant would be negatively influenced by diluted wastewater. Through already existing rainwater treatment, a drainage water quality is usually reached that is sufficient for the self-cleaning of the water bodies. The COD concentration values of the drainage are thereby many times lower than in the treatment process. However, to conduct all the current drainage from combined sewer systems through additional decentralised rainwater treatments requires considerable constructional measures, which would be difficult to perform in a densely populated city due to the necessary surface area. It would also cause significant costs for the operation of the plants. It is also unclear how a load reduction should be determined. **Fixed emission and quantity thresholds are therefore not feasible in this form and are to be rejected, as rainwater is subject to considerable variations in quantity and composition as well as in its localisation and distribution over time.**

On the other hand, **binding targets for the reduction of untreated discharges into water bodies are missing**. These should be stipulated and made binding in the management planning. It is to be expected that in the future, the monitoring obligation for pollution from urban drainage and from combined sewer overflows will remain, and that binding measures to reduce and treat it will be defined by the authorities. A clear framework in regional law could be an advantage in this respect.

Overall, unilateral measures that only involve wastewater treatment operators fall too short. **Green and blue measures must take on a central role in connection to the EU Strategy on Adaptation to Climate Change**. It is therefore positive that Annex V stipulates the implementation of such preventative measures to start with. It is correct for green infrastructures to be prioritised when new infrastructures are to be created, which supports the **principle of maintaining water-retaining subsoil in cities**. However, more precise requirements would also need to be anchored in the Directive in this regard. Furthermore, it is also correct that supporting the water balance and promoting natural water retention or using non-polluted rainwater should be given priority.

On Article 7 in relation with Part D Annex I and Annex II – Tertiary treatment

VKU's position:

From VKU's perspective, the **lowering of the concentration value for total nitrogen to 6 mg/l and for total phosphorus to 0.5 mg/l in discharges from urban wastewater treatment plants (Part D, Annex I, Table 2) is to be rejected**. The value for nitrogen in particular represents a new challenge for the sector, creating significant additional requirements for the upgrade of treatment plants and their operation, even if the plants already have tertiary treatment and fulfil the marine protection requirements. Extensive investments would be necessary. **VKU therefore does not support the proposed fixed thresholds for nitrogen and phosphorus vis-à-vis the proportional reduction of loads**. The measurement and the evaluation of the samples as a yearly average are however welcomed by VKU. Overall, it should be noted that a further reduction of nutrients requires the use of very high amounts of precipitants, which leads to an increase in the salt concentration in the water body, which is problematic for ecological reasons. Thus, the "ecological cost-benefit trade-off" for such measures should also be carefully considered.

Justification:

Despite fulfilling the required reduction of 85% of the total nitrogen value, the samples of VKU members of the past three years showed that a value of 6 mg/l was not possible for many plants. The extensions and operations necessary for fulfilling the new thresholds would require considerable resources and therefore financing, despite the **receiving waters already fulfilling the stipulations of the EU Marine Strategy Framework Directive**. This is the case in Germany for the Rhine, for example. The value of less than 2.8 mg/l for the Rhine at the national border has already been met in accordance with the national implementation in the "Oberflächengewässerverordnung". This is why we call for a general weighing of treatment performance and the further development of wastewater treatment in the context of the associated increase in required resources, including effects on the environment. The objective would therefore be more possible to reach through the definition of a proportional reduction of the load than through the proposed definition of fixed limit values for nitrogen and phosphorus. The measurement and evaluation of the samples as a **yearly average** is however welcomed by VKU.

On Article 8 and Parts B and D Annex I – Quaternary treatment

VKU's position:

VKU calls for a clear change of the proposal regarding the extensive establishment of **quaternary treatment** in urban wastewater treatment plants. Thereby, it must be ensured that the proposal is **designed according to the situation on the ground** and that it gives the operators the necessary **planning and investment certainty**. For example, the differentiation in the substance categorisation to assess the Category 1 and 2 elimination rates is not clearly understandable. Regarding the proportional value of cleaned wastewater discharges and agglomerations, VKU requests that a clear definition of the underlying criteria (e.g. wastewater quantities, wastewater loads, connected inhabitants, number of treatment plants etc.) be taken up in the further legislative process. A total of more than 2.000 treatment plants in Germany would be affected by the stricter wastewater treatment requirements with a threshold of 10.000 p.e. We therefore plead for the **threshold**

to be set at 100.000 p.e. or 50.000 p.e. and for the introduction of a gradual relevance assessment for the plants in this category. Furthermore, the **deadlines proposed by the Commission for the upgrade of treatment plants are not feasible, cannot be met in practice and must therefore be extended.**

Justification:

The Commission's proposal for additional treatment requirements for urban wastewater treatment plants in order to further reduce nutrients and micro-pollutants can be reasonable and effective, depending on the local conditions. Yet, which plants are actually suitable for an effective reduction of micro-pollutants in terms of efficiency and sustainability must carefully be assessed. In VKU's opinion, **clear criteria that take into account the local situation and give the operators the necessary planning and investment certainty** are required. This particularly applies to the question of which treatment plants are affected, especially for operators who are currently preparing projects. The listed necessity criteria, such as the dilution factor, sensitive water bodies etc., would affect nearly all urban wastewater treatment plants in the stipulated size category.

The objective of a fixed elimination rate according to the Swiss model of 80 percent misses the approach of reducing as much as possible the micro-pollutants that are actually a problem for drinking water supply at the local level. The necessity of linking with the requirements from the WFD and its daughter directives is also apparent here. **The aim of the differentiation in the substance categorisation to assess the Category 1 and 2 elimination rates is not clearly understandable.** In addition, especially regarding "new substances" like **microplastics**, in some cases there is no standardised analysis procedure or sampler to deliver legally certain and reliable results in an adequate timeframe.

The introduction of quaternary treatment described in Article 8 is not to be applied before 2030 for 50 percent of the discharges from urban sewage treatment plants (>100.000 p.e.) according to Paragraph 1. Regarding this proportional value, VKU requests that a **clear definition of the underlying criteria** (e.g. wastewater quantities, wastewater loads, connected inhabitants, number of sewage treatment plants etc.) be added in the further legislative process. This also applies to the proportional consideration of agglomerations in Article 8 (4). An unambiguous and unequivocal definition of proportional criteria values is absolutely necessary for the implementation of the Directive in national law and for implementation in practice.

Furthermore, the deadlines proposed by the Commission for the upgrade of the treatment plants are not feasible. In particular, they **cannot be reconciled with the available capacities in planning and construction, nor with the current approval periods in Germany.** The upgrade of a treatment plant and the associated time for obtaining approval and any necessary permissions for discharge into the receiving water bodies can currently take as long as **ten to fifteen years.**

Regarding the upgrade of the plants between 10.000 p.e. and 100.000 p.e., it must be said that the **threshold of 10.000 p.e. would represent a large challenge for many plant operators**, also in view of the achievement of the targets in the given deadlines. In parallel, the threshold of 10.000 p.e. is also very low in view of the effectiveness for lower water pollution loads. In rural areas in particular, there are weak receiving water bodies, mostly

third-order bodies of water with low water levels, which can also approach zero following climate change. Unfortunately, due to the worsening conditions in the receiving water bodies in summer, the ratio of receiving water to cleaned wastewater discharge is continually decreasing. In total, more than 2.000 sewage treatment plants in Germany would be affected by the stricter wastewater treatment provisions. We therefore plead for the **threshold to be set at 100.000 p.e. or 50.000 p.e.** and for the introduction of a gradual relevance evaluation for the plants in this category.

Overall, the introduction of provisions for quaternary treatment can only follow the principles of the Green Deal if they go **hand in hand with the anchoring of an effective and comprehensive extended producer responsibility**. Avoiding pollution at source is essential because the **removal of micro-pollutants through the technological upgrading of wastewater treatment will never be absolute** and there are substances that are only partially reduced through the usual procedures. This applies all the more when considering the strongly diluted concentrations in the course of the treatment plants, compared to the place of release. Other critical micro-pollutants can also be created as by-products. Considering proportionality and the associated risk-based analysis, we therefore wish to emphasize that the existing lack of regulation for **critical micro-pollutants from indirect discharges**, which can lead to considerable risks for the water bodies and drinking water supply, must be addressed. This applies, among other things, to **polar mobile micro-pollutants (PFAS, phosphonates, guanylurea)**, which are usually not or only difficultly removable in wastewater treatment plants.

In this context, it must be carefully assessed which technologies are available in the first place for an effective micro-pollutant reduction in the sense of efficiency and sustainability and how effective optimisations of existing treatment levels are. In VKU's opinion, clear criteria for the choice of possible treatment plants, which would allow a reasonable consideration of the local situation, are thereby to be preferred to a risk-based approach, as this approach would not correspond to the situation on the ground. Furthermore, extended treatment levels also require **significantly more energy**, which must be taken into account. Both the extra energy and the extra chemicals required would lead to considerable **increases in water tariffs**. The costs arising from this cannot be charged solely to the customer, in the sense of the fair distribution of costs and the 'polluter pays' principle.

On Article 9 and Annex III – Extended producer responsibility

VKU's position:

The **paradigm shift** undertaken by the Commission's proposal of **holding those causing water pollution accountable and financially responsible through extended producer responsibility (ERP) is overdue** and responds to a central demand of the local public wastewater treatment sector. The EPR is an essential pillar of the whole proposal and an indispensable condition for its successful implementation, as it delivers an **essential financial contribution, particularly for the implementation of the new provisions for quaternary treatment**. This central environmental innovation must not be diluted in the upcoming discussions on the ERPs' practical implementation.

Justification:

With the Commission's proposal for an extended producer responsibility, those responsible for pollution discharges are to be held financially responsible to start with, and incentives are to be created to avoid pollution. This could clearly improve protection against water pollution from VKU's point of view: It is significantly better, from an ecological and economic standpoint, to avoid pollution discharges directly at the source or at least reduce the discharges, instead of reducing highly diluted pollutants later with technically expensive processes before they enter water bodies. This has been the case until now. To ensure the successful implementation of this paradigm shift in EU water policy, it will be important that the EPR-perspective and the zero pollution target are also **taken up in all other European policy areas in the future when considering pollution, and that the instrument of producer responsibility is consistently applied**. This also applies, for example, to the implementation of the EU Strategy on Pharmaceuticals in the Environment and to the use and authorisation of chemicals and pesticides. Other initiatives of the Green Deal should also contribute to the zero pollution target.

One thing is clear: Without the financial contribution of EPR, the Commission's proposals in other areas would not be possible to implement. In this context, the public wastewater treatment sector expressly welcomes the fact that producers are to bear the **full costs of quaternary treatment as an approximation of the environmental costs**, including monitoring, enforcement and implementation costs as well. In order for the producer responsibility to have its full effect, a simple implementation scheme will be needed in practice, as is outlined in the Commission proposal by relating the assessment to hazardousness and quantity (Article 9 (4) c). The draft thereby already shows a willingness to prioritise enforceability over the exactness of the assessment, and thus smoothens the way for an implementation that corresponds to the situation on the ground. It is also essential that the burden of proof is borne by the producer (Article 9 (4) a).

The establishment of an extended producer responsibility as defined in the proposal is a true milestone of European water policy. Yet, it must not be let out of sight that the cost-bearing for the "reparation" of environmental pollution can only represent the second-best option. Whether the economic incentives to avoid costs are high enough to cause less hazardous products to be used instead is still an open question. **It is therefore all the more important to apply the zero-pollution target consistently in all European policy areas.**

On Article 10 – Minimum requirements for producer responsibility organisations

VKU's position:

The local public wastewater treatment sector welcomes the fact that with Article 10, **minimum requirements** for organisations for the extended producer responsibility are formulated that aim for a **unified and comparable framework across Member States**.

Justification:

In order for an extended producer responsibility to work, a transparent design is of decisive importance. Alongside comparable minimum requirements for the design of the competent organisations, this also includes the regular listing of the collected funds according to the producers or distributors of certain products or substances, as well as determining

for which measures the collected funds are to be used. This is all the more important because administration, hydrological and market limits are different to one another, and yet a uniform regulatory framework is crucial.

On Article 11 – Energy neutrality of urban wastewater treatment plants

VKU's position:

The Commission's proposal regarding energy neutrality as of 2040 should be fundamentally revised. Full supply through energy produced by the plants themselves is only possible in few cases and should therefore not be a rule. Instead, the necessary **energy consumption should come solely from renewable sources**, regardless of whether the plants generate it themselves. Instead of energy neutrality, the **aim should be a balanced climate footprint**. Energy neutrality should thereby be replaced with **an energy-efficient operation of the plants** in accordance with the technical rules.

Justification:

VKU fundamentally welcomes the continuation of the support for energy potentials that can be efficiently tapped in the wastewater treatment sector. The objective and timeframe of the proposal are however unrealistic. The energy requirements of a wastewater treatment plant depend on a number of regionally-specific conditions, including size, population structure, climate zone, level of industrialisation etc. These conditions determine the composition of the wastewater and the technical requirements of the wastewater treatment. **Fixed requirements regarding energy consumption and energy efficiency are therefore not appropriate for wastewater treatment**. In addition, the European wastewater sector is not homogenous. Referring to the experience from the most advanced member states as proposed by the Commission can therefore not be used as a standard.

VKU also fails to see any coherence in the present Directive proposal. The many requirements do not correspond to the goal of climate neutrality. The stricter provisions the elimination of micro-pollutants lead to further treatment levels, which significantly increase the energy consumption of the plants. **The development of quaternary treatment would increase the energy consumption of the plants by up to 30 percent** (National Water Strategy in Germany). More energy-intensive plants would also have to be built, or rainwater treatment plants, if a significant part of the wastewater flow had to be decoupled in combined sewer systems. Long-lived and expensive, but energy-intensive plant parts such as the ventilation systems may need to be replaced in order to achieve the neutrality target. These requirements do not correspond in any way to the current planning and approval procedure, construction times or existing construction possibilities in residential areas. **The target date of 2040 can therefore not be met in any form.**

The proposal especially creates coherency with the European Green Deal and the Energy Efficiency Directive (EDD). From VKU's point of view, this is however insufficient. It is important to take into account in particular the many **provisions of tax, pollution and energy law, as well as the Guidelines on State Aid for Climate, Environmental Protection and Energy (CEEAG), which considerably limit the development of energy production in the wastewater treatment sector**. These restrictions would have to be removed as

quickly as possible in order to drive energy production forwards. If the Commission determines goals in this regard, at this point in time, without removing the obstacles, then these goals could hardly be met by the plant operators. In addition, the climate neutrality target must not counteract the primary goal of the Directive, which is to reduce water pollution from wastewater discharges. This is why it should be closely connected to the European water protection aims.

Wherever extended requirements are made for wastewater treatment, in particular in Article 8, the energy requirements will raise, which would then have to be balanced out. This would mean that the production of renewable energies from sewage treatment plants would need to be significantly higher if they were to become self-sufficient in energy by 2040 as required by the Commission. The actual energy production from the wastewater treatment process is proportional, but much lower, when the processes are at all technically planned or possible (for example aerobic stabilisation plants). The Commission considerably overestimates the possibilities for the production of renewable energies, particularly regarding biogas from sewage sludge as a replacement for natural gas imports. Energy production can also not belong to the main tasks of wastewater treatment plants. **VKU therefore pronounces itself in favour of concentrating the requirements in the Directive on energy supply from regenerative energies.**

The urban wastewater treatment sector only represents a **low part of the total emissions of greenhouse gases (around 0.86%) and of the total energy consumption (around 0.8%)** in the EU. Nevertheless, the proposal foresees extensive energy neutrality demands for the sector. **Costs and benefits are not at all proportionate here, in particular for treatment plants of smaller size.** Even just the obligatory energy audits would create considerable bureaucratic costs for measurements, data collection and documentation.

On Article 14 – Discharges of non-domestic wastewater

VKU's position:

VKU welcomes that the Commission clarifies in its proposal that requirements for the discharge of non-domestic wastewaters in the sewer system and urban wastewater treatment plants are to be subject to a heavier enforcement, which is also to be applied more consistently. This includes, among other things, that **concrete requirements for the discharge must be fulfilled before an approval is granted**, and that in the future an obligation to update the stipulations of the approval if properties of the non-domestic wastewater significantly change in the treatment in the treatment plant or the receiving water body is to apply, with the condition that all the requirements continue to be fulfilled. In addition, the obligation of a regular verification of the approval (every 6 years) and the obligation to document the fulfilment of all the conditions in an annex to the approval must be incorporated.

Justification:

The possibility for the urban wastewater plant operator to consult upon request the approvals granted in the water catchment area of the treatment plant should be subject to a requirement of transparency. This means that there can be no censoring parts of the approval text with relevance for the plant operator. In particular, it is necessary to make the legal framework set by the EU coherent and consistent in policy areas that affect each

other. This will help adhere to the guiding principles of the EU, such as the precautionary principle and the aim of an environmental and climate policy that holds those causing pollution accountable.

On Article 15 – Water reuse and discharges of urban wastewater

VKU's position:

VKU generally welcomes the systematic support for the reuse of treated wastewater from all urban wastewater treatment plants, as long as **no economic reasons or reasons related to the water sector oppose it**. The discharge of treated wastewater into the receiving water, which has been practised for years, is very important for the stabilisation of the water balance. It is thus already a "re-use of wastewater". The provisions proposed now should also correspond to the Regulation on minimum requirements for water reuse, and the protection of resources for drinking water production must absolutely be ensured. Any intersections should thereby be clarified once again.

Justification:

The systematic support of the reuse of treated wastewater from urban wastewater treatment plants makes it possible to find adjustment solutions with regard to the effects of climate change. It can represent an additional source for the necessary water consumption of many different applications in urban, agricultural and industrial areas. Along with approval regulation requirements, it is important to address economic issues, such as costs and business models that, from today's perspective, go beyond the operators' core business.

A careful use of the resource that is water is absolutely necessary under the sign of climate change. The reuse of cleaned wastewater can contribute in case of increased water stress, just as the discharge of treated wastewater into receiving water bodies and its reuse already does. The priority here is however the improvement of water efficiency in agricultural irrigation and industrial production, before measures for reusing wastewater are taken. In addition, the local conditions should also be taken into account.

On Article 17 – Urban wastewater surveillance

VKU's position:

The binding guarantee of the constant collaboration between water and health authorities for the monitoring of not only pathogens, but also pollutants of increasing concern as well as other public health parameters that are considered relevant to monitor by the competent authorities, is generally to be welcomed in the opinion of VKU. It means that in case of concerning anomalies, extensive investigations could be authorised and measures taken in good time. However, the monitoring of the relevant public health parameters would be an **additional and new task for the urban wastewater management, which would not correspond to the primary goal of the Directive – the protection of water against pollution**. It must be clarified that the associated **costs and personnel expense** would be financed by the offices competent for the pandemic management.

Justification:

VKU generally supports the idea of a systematic monitoring for parameters relevant to human health. The experience of VKU members so far has shown that regular wastewater analyses can quickly reveal the Corona virus or whether the infection dynamic has changed. This is why many urban wastewater treatment operators are also providing their expertise in the context of the current research activities of the federal government in Germany. Experience shows that the analysis of the samples and assessment of the analysis results is not possible for either the wastewater treatment operators or the water authorities with regard to pandemic management measures. This analysis must be conducted by the health authorities.

Adding a comprehensive wastewater monitoring obligation in the Urban Wastewater Treatment Directive is however problematic. It is instead necessary to choose targeted sites for such a monitoring. In particular with regard to the fact that not only pathogens are to be considered in the future, an **adjustment of the monitoring is necessary and requires harmonised methods and assessment principles before extensive monitoring programmes can be established**. It would be more conceivable to address corresponding requirements to the monitoring authorities, for example through watch lists. Furthermore, the division of responsibilities between the health authorities and the wastewater treatment sector must be clearly defined and the question of financing clarified. A **collaboration between the water and health authorities is also essential**. Furthermore, this also represents an additional and new task for the urban wastewater management, which will lead to corresponding **costs and personnel expenses**.

On Article 18 – Risk assessment and management

VKU's position:

For stricter requirements that are to be implemented as a consequence of risk management, feasibility and realistic deadline definitions must be ensured to start with. For the execution and implementation of risk management, the intersections with other policy areas must be clearly defined and regulated. The **responsibilities** should however also be determined. Experience in Germany shows that they will mostly be borne by the wastewater treatment operators, which VKU opposes.

Justification:

The risk for the environment and for humans associated with the discharge of urban wastewater is to be determined every two years, in relation to all EU regulations that serve various waterbody protection aims. When risks or deficiencies are determined, appropriate measures are to be envisaged and implemented. This could lead to the application of stricter requirements for the treatment of collected urban wastewaters than those stipulated in the Annex 1 Part B.

The examination of the criteria for further wastewater treatment for the elimination of micro-pollutants should be carried out within the framework of **the river basin management according to the Water Framework Directive**. The aim of management can be both the elimination or reduction of deficits or pressures and the preservation of water quality. In doing so, the uses and protection goals must be taken into account. In principle, all important polluters and sources of pollution are to be included in the management in the

sense of a holistic approach. It must be examined to what extent the wastewater treatment plant under consideration is of significance in the context of the wastewater treatment plants of a water system and other sources of pollution with regard to water pollution with relevant micro-pollutants.

In VKU's point of view, the criteria of the pollution situation of the water body and the need for protection of the water body and utilisation requirements are relevant for the examination of further wastewater treatment for the elimination of micro-pollutants.

On Article 20 – Sludge

VKU's position:

When determining minimum recovery rates, it must be ensured that these rates remain technically and economically feasible. This is not the case for a rate of 90% from sewage sludge, which VKU therefore rejects. Instead, a clear differentiation between wastewater and sewage sludge is needed. **VKU opposes the definition of minimum recovery rates in delegated acts**, as this should be the responsibility of the Member States. With the national "Klärschlammverordnung", Germany already has corresponding regulations concerning recovery rates from sewage sludge or ashes, which should not be made stricter by the requirements of the UWWTD, as the wastewater treatment plants need legal and planning certainty.

Justification:

For the definition of phosphorus and nitrogen recycling rates from sewage sludge, the available technologies for recovery should be carefully assessed with regard to feasibility. While a recovery of 80 percent can currently be achieved in Germany from sewage sludge ashes, an increase to 90 percent would require a notable increase in energy and chemicals consumption. The issue of proportionality should be considered. Current processes to recover phosphorus from sewage sludge only achieve about 50 percent. Few processes would be at all able to achieve a notably higher recovery rate. When determining minimum recovery rates, it is therefore essential to consider that **they must be technically feasible and that a clear differentiation between wastewater and sewage sludge is required**.

Furthermore, the use of the recovered raw materials still requires clarification, particularly regarding authorisation. **Neither the authorisation nor the placing on the market, i.e. the feedback into the circuit, should be an additional wastewater management task.** Interfaces must therefore be defined in advance.

On Article 23 – National implementation programmes

VKU's position:

In general, the deployment of implementation programmes by the Member States can contribute to recording of the measures necessary for the implementation of the Directive and the investments they require. It can also support the assessment of which actions required to preserve an appropriate cost-effectiveness ratio should be implemented with which priority. However, this must not lead to a disproportionate effort for

the entities tasked with providing the required data. In VKU's opinion, the already **mandatory overarching plans and aggregated cost estimates must therefore be included** in the establishment of the implementation programmes, to serve as a basis for the evaluation of the national projects.

Justification:

In Germany, there are over 6.000 entities responsible for wastewater management. The number of municipalities is even higher. The definition and planning of all the necessary investments at the municipal level, both for the additional investments necessary due to this Directive and for the necessary investments arising from the continual maintenance and renewal of the already existing infrastructure, requires extensive data collection of these entities and municipalities. Of course, corresponding plans are kept and updated by the entities. An aggregated recording and preparation for EU reporting purposes requires, however, a costly unification of data recording and aggregation. This means an immense recording effort for the entities and municipalities, without any possible local use as compensation. In the context of the already serious skilled worker shortage in the companies and administration, the implementing entities should not be burdened with additional reporting duties alongside their actual tasks of maintaining services of general interest and implementing legal requirements. In this context, the corresponding reporting duties should either be completely waived or, alternatively, shifted to a higher information aggregation level, in which each single implementing entity would not need to be involved.

On Article 24 and Annex VI – Information to the public

VKU's position:

VKU supports the general objective of purposefully informing the public about the significance of urban wastewater management and the services it performs. A well-informed public is an essential success factor in order to increase public awareness of wastewater treatment and water protection requirements and ensure acceptance of the associated costs. The extent of the information to be provided now according to the provisions outlined in Annex VI is however far too large and should be considerably reduced. The information to be provided should be tailored to the specific interests of the consumers regarding their wastewater services and deliver a **clear value added**. The principle of **proportionality** has to be met at all times and a sufficient period of time needs to be available for preparing the information to be provided.

Justification:

The urban wastewater treatment operators already provide extensive and up-to-date information for their customers. The task of serving the citizens' right to information regarding the sustainability, quality and safety of the wastewater treatment must continue to be ensured in the future.

More extensive public information duties have already been introduced with the revision of the Drinking Water Directive. Drinking water regularly receives more public interest than wastewater. The information duties now being discussed for wastewater treatment must therefore be oriented according to the Drinking Water Directive and not exceed the scope defined therein.

From a consumer's perspective, the essential ratios are those that are of immediate relevance to his/her service area at local level, less so the information that suggests an apparent comparability in a European context (in its entirety). In order to be able to explain the sum of the costs for wastewater management, it is useful for customers to deliver the information on the quantity of wastewater treated and the cost-recovering charges and fees arising from this according to fixed and variable components. In conjunction with the wastewater quantities for the connection in the previous years and a benchmark for comparison with other consumers, the consumers addressed thus receive sufficient economic information concerning the wastewater generated by them.

Costs arising from wastewater treatment from the utility's perspective, and that are divided according to various cost types, are hardly understandable for the consumer in the required granularity and are not well-adapted to consumers' information needs. Their preparation, however, requires an immense effort of the entities tasked with it, an effort made in vain for lack of interested recipients. Providing wastewater treatment services leads, of course, to many different costs from various categories, such as operational costs, personnel costs, administrative costs, energy costs, etc. Investments are also necessary, which are reflected in wastewater treatment charges and fees in the form of amortisations and capital costs. However, breaking down these types of costs in detail, and even further, in proportion to each connection or cubic meter, misses the actual goal of informing the consumers about their own charges and fees. They instead create an apparent transparency, which actually leads to more confusion than to more information if the underlying complex interactions are not clarified. It also suggests a comparability of costs that seem similar, but are actually not comparable, as the actual costs strongly depend on the local conditions for service provision.

In parallel, it must be taken into consideration that sensitive data concerning critical infrastructures must be protected in order to ensure their resilience. Furthermore, operators must be given an appropriate period of time to prepare the information to be provided.

On Article 27 – Exercise of the delegation

VKU's position:

The Commission proposes a number of delegated acts in a revised UWWTD. **VKU rejects this in this form, as neither the European Parliament nor the Member States via the Council could participate in a design that would correspond to the situation on the ground.** This particularly includes, among other things, delegated acts for a minimum recovery rate for phosphorus from sewage sludge (see Article 20) and provisions about wastewater treatment.

Justification:

The Commission proposes various delegated acts to supplement or amend certain provisions. The relevant authorities are also given power to revise provisions, such as the choice of substances to calculate the minimum percentages of removal of substances that can pollute water even at low concentrations (see Annex 1, Table 3, Note 2). These retrospective individual amendments could lead to the loss of planning, investment and legal certainty for the operators. Particularly regarding the elimination of micro-pollutants, any

substance-specific processes that are very energy-intensive should not be operated redundantly.

The requirements for urban wastewater management must therefore be **stipulated directly in the Urban Wastewater Treatment Directive**. Delegated acts can **only contain additional clarifications**, but not the definition of parameter limit values or recovery rates. A design that corresponds to the situation on the ground requires the proper participation of the European Parliament and the Council of Ministers.

On Articles 30 and 31 – Evaluation and Review

VKU's position:

The proposed review in 2030 and 2040 is too close to take into account the long planning cycles and longevity of the systems. VKU therefore pleads for a **longer planning timeframe**, alongside which an **extension of the implementation deadlines** is also necessary, as already explained.

Justification:

Even if it is right for the Commission to regularly verify the correct implementation of the Directive by the Member States, and to thereby investigate whether the list of products that should fall under an extended producer responsibility is to be adjusted, making new adjustments that are not proportionate too often or at too short intervals must be avoided, with regard to the long-term planning and investment cycles that are required by the new provisions.

On Article 33 – Transposition

VKU's position:

The implementation deadlines proposed by the Commission are **unrealistic and not feasible** for the various different components of the proposal, sometimes until 2025. An implementation that respects the deadlines would not be possible to this extent, particularly due to the number of new requirements and the associated investment measures. **We therefore request an extension of the implementation deadlines.**

Justification:

The deadlines proposed by the Commission for the upgrade of the urban wastewater treatment plants are fundamentally unfeasible and cannot be met in practice. In particular, they **cannot be reconciled with the current approval periods in Germany**. The upgrade of a treatment plant and the associated time for obtaining the approval and any necessary permissions for discharge into the receiving water bodies can currently take as long as **ten to fifteen years**.

For questions or remarks, please contact:

Christiane Barth
VKU Brussels office
Phone +32 2740 16 56
barth@vku.de

Nadine Steinbach
VKU Headquarters Berlin
Dept. Environmental Policy Water/Wastewater
Phone +49 30 8580 153
steinbach@vku.de

Dr. Britta Ammermüller
VKU Headquarters Berlin
Dept. Economic and Regulatory Policy
Phone +49 30 8580 156
ammermüller@vku.de