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Committee on Industry, Research and Energy

2013/0443(COD)

18.11.2014

DRAFT OPINION

of the Committee on Industry, Research and Energy

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive of the European Parliament and of the Council
on the reduction of national emissions of certain atmospheric pollutants and
amending Directive 2003/35/EC
(COM(2013)0920 – C7-0004/2014 – 2013/0443(COD))

Rapporteur: Adam Gierek

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SHORT JUSTIFICATION

Anthropogenic emissions of gases and particulates are largely caused by the incomplete combustion of fuels in heating, energy generation and transport, by industrial chemical processes and by abrasion caused by wheeled means of transport. Their intensity may have a seasonal character relating, *inter alia*, to low-level emissions.

The objective of the proposed directive of the European Parliament and of the Council is the establishment of new national emission limits for the most significant varieties of atmospheric pollutants. The proposed directive is intended to replace the current Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants to 2010 and to adapt EU law to its international commitments arising from the 1999 Gothenburg Protocol. The aim of the proposal is to reduce potential threats to human health, the environment and the climate. The proposal is the outcome of a review of EU atmospheric protection policy and forms part of a package of new EU rules.

Besides adapting EU law to the amended provisions of the 25-year-old Protocol, the proposed directive provides for a modification – i.e. a gradual stepping up of reduction commitments from 2020 to 2030 and later – in respect of four types of gas pollutants set out in the current directive (sulphur dioxide, nitrogen oxides, volatile organic compounds other than methane, and ammonia), in respect of particulate matter with a diameter no smaller than 2.5 micrometres (in accordance with the amended Protocol), and in respect of methane emissions. Within the scope of these ambitious plans to reduce pollutants, the proposed directive provides for medium-term emission ceilings for 2025.

The Member States' commitments to reducing emissions are expressed as a percentage of emissions reductions between the total amount of a particular type of pollutant for the reference year (2005) and the total amount of emissions of that pollutant released into the atmosphere in the target calendar year. The directive obliges the Member States to draw up national programmes for the reduction of emissions and to update them regularly (every two years). The programmes should contain a description of activities that make it possible for the Member States to assess the financial consequences of attaining the reduction targets. The Member States should, moreover, be obliged to monitor emissions of air pollutants and to draw up national balance sheets and emission projections. Both the national programmes and the emission balance sheets shall be submitted to the Commission.

The proposed directive also introduces a minor change to Directive 2003/35/EC concerning public participation in drawing up some plans and programmes dealing with the environment. This change consists of a reference to a provision concerning national programmes for the reduction of emissions.

It became necessary to amend Directive 2003/35/EC of the European Parliament and of the Council due, *inter alia*, to soil acidification, water eutrophication and progressive climate change. It has thus become necessary to develop a new legal act to consolidate the provisions that had already been implemented.

The most important are the amendments concerning legal provisions relating to public

participation in the drawing up of plans and programmes dealing with the environment. A reference to national provisions governing the monitoring of air pollution has therefore been introduced to Annex I to the aforementioned Directive.

Position of the rapporteur

The rapporteur welcomes the proposal for a new directive of the European Parliament and of the Council. However, it must be stated that its basic elements were developed a quarter of a century ago, and the proposal fails to make reference to the need for better regulation and monitoring of these emissions, particularly at local level, through improving measurement methods.

Specific comments

- 1) The proposal did not take into account emissions of all particles, including emissions of particulate matter with a diameter of less than 2.5 micrometres, and particularly the most dangerous particulates for human health and the climate with diameters in the nanometre range.
- 2) It did not take into account chlorinated aromatic hydrocarbons, i.e. dioxins.
- 3) An important and pertinent issue is the seasonal character of emissions, in particular, the increased emissions in the heating period, including so-called low-level emissions.
- 4) Given that emissions spread irrespective of borders, maritime countries, aviation and maritime transport should not be exempted from the obligation of reducing their emissions. Countries should not be able to assess their emissions on a 'flexible' basis.
- 5) One hazardous gas released anthropogenically, although not produced anthropogenically in large amounts, is hydrogen sulphide (H₂S). Bacterial methods for refining high-sulphur crude oil during maritime transport which emit significant amounts of this toxic gas (H₂S) into the atmosphere are known.
- 6) From a formal perspective, however, and particularly as regards references to various annexes of Commission proposals, there is a general lack of transparency in the Commission's draft directive. The legal act in question should – in the opinion of the rapporteur for the opinion – have its own annexes, and should at least indicate more precisely to which specific documents the annexes refer.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Article 1

Text proposed by the Commission

This Directive establishes the limits for the Member States' atmospheric emissions of acidifying and eutrophying pollutants, ozone precursors, primary particulate matter and precursors of secondary particulate matter **and** other air pollutants and requires that national air pollution control programmes be drawn up, adopted and implemented and pollutant emissions and their impacts be **monitored and reported**.

Amendment

This Directive establishes the limits for the Member States' **measurable** atmospheric emissions of **gases and particulates, i.e.** acidifying and eutrophying pollutants, **as well as** ozone precursors, primary particulate matter and precursors of secondary particulate matter, **indicates difficult-to-measure sources of** other air pollutants **which form aerosols**, and requires that national air pollution control programmes be drawn up, adopted and implemented and **that better methods for monitoring and reporting** pollutant emissions and their impacts be **developed**.

Or. pl

Justification

Emission limits may only concern such types and forms of emissions as can be measured in a clear-cut manner using existing physicochemical methods to monitor them on an ongoing basis. However, sources of emissions that are difficult to measure in a precise manner, but which create aerosols which are long-lasting and hazardous to health and the climate, should nonetheless be indicated, and efforts should be made to develop better methods of monitoring them.

Amendment 2

Proposal for a directive Article 3 – paragraph 1

Text proposed by the Commission

1. “emission” means **the** release **of a**

Amendment

1. “emission” means **general**

substance from *a point* or diffuse *source* into the atmosphere;

physicochemical processes which generate and release gas or particulate substances from *points* or diffuse *sources* into the atmosphere;

Or. pl

Justification

This involves a more general and comprehensive understanding of all emissions arising during processes, thus to their generation and release, and not just the final release of the products.

Amendment 3

Proposal for a directive
Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. ‘low-level emissions’ mean chimney emissions of a seasonal character from point sources, primarily concerning heating periods, of gas and particulate substances released into the atmosphere as a result of the convection flows of waste gases from boiler equipment with low conversion efficiency, which is a consequence of low combustion efficiency and a lack of oxygen;

Or. pl

Justification

This is one of the sources of hazardous pollution that often manifest in agglomerations. It is linked to low combustion efficiency and can lead to smog.

Amendment 4

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

Amendment

4. “nitrogen oxides” (NO_x) mean ***nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide***;

4. “nitrogen oxides” (NO_x) mean ***a mixture of nitrogen oxides of undefined composition***;

Or. pl

Justification

Clarification is needed, as NO_x is a mixture of nitrogen oxides of undefined composition produced during the combustion of fossil fuels. This mixture consists of considerably larger amounts of the harmful NO than of the less harmful NO₂. Furthermore, it occasionally includes trace amounts of nitrous oxide (N₂O).

Amendment 5

Proposal for a directive Article 3 – paragraph 5

Text proposed by the Commission

Amendment

5. “non-methane volatile organic compounds” (NMVOC) means all organic compounds of an anthropogenic nature, other than methane, that ***are capable of producing*** photochemical oxidants ***by reaction with nitrogen oxides in the presence of sunlight***;

5. “non-methane volatile organic compounds” (NMVOC) means all organic compounds of an anthropogenic nature ***present in the atmosphere***, other than methane, that, ***owing to the effects of solar radiation, react with the nitrogen dioxide present in the atmosphere to stimulate the production of*** photochemical oxidants;

Or. pl

Justification

This amendment serves to emphasise the fact that these phenomena occur in the atmosphere itself, and not exclusively during the combustion process of fossil fuels.

Amendment 6

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall, as a minimum, limit their annual anthropogenic emissions of sulphur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds **other than methane** (NMVOC), ammonia (NH₃), **particulate matter** (PM_{2,5}) and **methane (CH₄)** in accordance with the national emission reduction commitments applicable from 2020 and 2030, as laid down in Annex II.

Amendment

1. Member States shall, as a minimum, limit their annual anthropogenic emissions of sulphur dioxide (SO₂), nitrogen oxides (NO_x), **methane (CH₄) and other** volatile organic compounds (NMVOC), ammonia (NH₃) **and organic and non-organic particulates in solid (PM_{2,5}) or liquid form** in accordance with the national emission reduction commitments applicable from 2020 and 2030, as laid down in Annex II.

Or. pl

Justification

The term 'volatile organic compounds other than methane' is not in keeping with standards of scientific professionalism. It should therefore be indicated that harmful aerosols are composed of microparticles and nanoparticles in solid and liquid form suspended in the air.

Amendment 7

Proposal for a directive

Article 4 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Without prejudice to paragraph 1, Member States shall take all the necessary measures not entailing disproportionate costs to limit their 2025 anthropogenic emissions **of SO₂, NO_x, NMVOC, NH₃, PM_{2,5} and CH₄. The levels of those emissions shall be determined on the basis of fuels sold, by a linear reduction trajectory established between their emission levels for 2020 and the emission levels defined by the emission reduction commitments for 2030.**

Amendment

2. Without prejudice to paragraph 1, Member States shall take all the necessary measures not entailing disproportionate costs to limit their 2025 anthropogenic emissions **referred to in paragraph 1, directly on their territory, on their territorial seas and in their Exclusive Economic Zones.**

Or. pl

Justification

Rather than repeating the types of emissions, it is sufficient to refer to the previous paragraph. Given the technological advances in the field of combustion efficiency, setting a level for emissions on the basis of the amount of fuel sold is a massive error. Furthermore, different rules and criteria should not be applied to countries' territorial seas and Exclusive Economic Zones, since climate change affects the entire planet.

Amendment 8

Proposal for a directive

Article 4 – paragraph 3

Text proposed by the Commission

3. The following emissions are **not** accounted for the purpose of complying with paragraphs 1 and 2:
- a) aircraft emissions beyond the landing and take-off cycle;
 - b) emissions in the Canary Islands, the French overseas departments, Madeira, and the Azores;
 - c) emissions from national maritime traffic to and from the territories referred to in point (b);
 - d) emissions from international maritime traffic, without prejudice to Article 5(1).

Amendment

3. The following emissions are accounted for the purpose of complying with paragraphs 1 and 2:
- a) aircraft emissions beyond the landing and take-off cycle;
 - b) emissions in the Canary Islands, the French overseas departments, Madeira, and the Azores;
 - c) emissions from national maritime traffic to and from the territories referred to in point (b);
 - d) emissions from international maritime traffic, without prejudice to Article 5(1).

Or. pl

Justification

We must not close our eyes to all of these emissions, which – just like CO₂ – remain for long periods in the atmosphere and contribute towards climate change.

Amendment 9

Proposal for a directive

Article 4 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall assess the rapidly changing distribution of NOx emissions from non-stationary diesel engines in personal and commercial motor vehicles in use in the EU in order to better assess and fulfil commitments to reduce NOx emissions from all sources.

Or. pl

Justification

The number of diesel-fuelled vehicles in EU Member States is growing rapidly. The export of used vehicles with diesel engines to Central and Eastern Europe, for instance, is also growing rapidly. This means that the distribution of emissions in those countries is rapidly changing and that all commitments expressed in thousands of tonnes will be rather imprecise.

Amendment 10

**Proposal for a directive
Article 4 – paragraph 3 b (new)**

Text proposed by the Commission

Amendment

3b. Anthropogenic emission levels shall be determined by subtracting the amount of natural emissions from total emissions.

Or. pl

Justification

This concerns natural emissions – such as from land under cultivation – of nitrogen oxides and particulate matter, for instance.

Amendment 11

**Proposal for a directive
Article 5 – paragraph 1**

1. In order to comply with the intermediate emission levels determined for 2025 in accordance with Article 4, paragraph 2, and the national emission reduction commitments set out in Annex II applicable from 2030 onwards for NO_x, SO₂ and PM_{2,5}, Member States may offset NO_x, SO₂ and PM_{2,5} emission reductions achieved by international maritime traffic against NO_x, SO₂ and PM_{2,5} emissions released by other sources in the same year, provided that they meet the following conditions:

deleted

a) the emission reductions occur in the sea areas that fall within the Member States' territorial seas, exclusive economic zones or in pollution control zones if such zones have been established;

b) they have adopted and implemented effective monitoring and inspection measures to ensure a proper operation of this flexibility;

c) they have implemented measures to achieve lower NO_x, SO₂ and PM_{2,5} emissions from international maritime traffic than the emissions levels that would be achieved by compliance with the Union standards applicable to emissions of NO_x, SO₂ and PM_{2,5} and have demonstrated an adequate quantification of the additional emission reductions resulting from these measures;

d) they have not offset more than 20% of the NO_x, SO₂ and PM_{2,5} emission reductions calculated in accordance with point (c), provided that the offset does not result in non-compliance with the national emission reduction commitments for 2020 set out in Annex II.

Or. pl

Justification

Państwa członkowskie winny kontrolować i regulować wszystkie emisje, za które są odpowiedzialne, zgodnie ze zobowiązaniami zawartymi w załączniku II. Poprawka ta koreluje z poprawkami 7 i 8 niniejszego projektu opinii. Tak zwana “elastyczność” wspomniana w lit. b) nie może służyć fikcyjnym kalkulacjom dotyczącym trudnych do monitorowania i kontroli emisji, do których państwa członkowskie się zobowiązały (załącznik II). Jeśli chodzi o lit. c) państwa członkowskie powinny kontrolować i odpowiadać za wszystkie emisje na obszarach i terytoriach im podległych. Warunek przewidziany w lit. d) jest sztucznym warunkiem opartym na nierealnych limitach. Pytanie: dlaczego 20%, a nie np. 37%?

Amendment 12

Proposal for a directive Article 5 – paragraph 3

Text proposed by the Commission

3. Member States may establish adjusted annual national **emission** inventories for **SO₂, NO_x, NH₃, NMVOC and PM_{2,5}** in accordance with Annex IV where non-compliance with their national emission reduction commitments or their intermediate emission levels would result from applying improved emission inventory methods updated in accordance with scientific knowledge.

Amendment

3. Member States may establish adjusted annual national emission inventories for **emissions referred to in Article 4(1)** in accordance with Annex IV where non-compliance with their national emission reduction commitments or their intermediate emission levels would result from applying improved **emission reduction technologies and** emission inventory methods updated **on the basis of monitoring and** in accordance with scientific knowledge.

Or. pl

Justification

The issue of methods for drawing up emission inventories is, after all, not one of scientific knowledge, but of technologies that make reductions possible and of monitoring, which would help with updating the inventories in an objective manner.

Amendment 13

Proposal for a directive Article 5 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Where the Commission has raised no objections within nine months from the date of receipt of the relevant report referred to in Article 7, paragraphs 4, 5 and 6, the Member State concerned shall consider the use of the flexibility applied to be accepted and valid for that year. ***Where the Commission considers the use of a flexibility not to be in accordance with the applicable requirements and criteria, it shall adopt a Decision and inform the Member State that it cannot be accepted.***

Amendment

Where the Commission has raised no objections within nine months from the date of receipt of the relevant report referred to in Article 7, paragraphs 4, 5 and 6, the Member State concerned shall consider the use of the flexibility applied to be accepted and valid for that year.

Or. pl

Justification

There is clearly a problem with the use of flexibility, namely the lack of clear criteria in determining it. This is why the Commission proposal contains provision for the Commission itself to act as ultimate arbiter in this matter.

Amendment 14

Proposal for a directive

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

3a. The Member States shall gradually eliminate sources of low-level emissions, particularly in larger agglomerations, by replacing low-efficiency heating apparatus with modern, high-efficiency apparatus in individual houses and flats, and in compact housing estates by replacing thermal power plants with small, local Combined Heat and Power plants.

Amendment

Or. pl

Justification

This is a matter not only of reducing low-level emissions, but of eliminating them entirely.

Amendment 15

Proposal for a directive Article 12

Text proposed by the Commission

The Union and the Member States, as appropriate, shall pursue bilateral and multilateral cooperation with third countries and coordination within relevant international organisations such as the United Nations Environment Programme (UNEP), United Nations Economic Commission for Europe (UNECE), the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO), including through the exchange of information, concerning technical and scientific research and development, with the aim of improving the basis for emission reductions.

Amendment

The Union and the Member States, as appropriate, shall pursue bilateral and multilateral cooperation with third countries and coordination within relevant international organisations such as the United Nations Environment Programme (UNEP), United Nations Economic Commission for Europe (UNECE), the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO), including through the exchange of information, concerning technical and scientific research and development, with the aim of improving the basis for emission reductions. ***Member States shall conduct cross-border consultations on mutual threats posed by emissions from adjacent industrial regions in those countries and develop joint plans to eliminate or reduce those emissions.***

Or. pl

Justification

Neighbouring Member States should conduct consultations and develop joint plans to eliminate or reduce emissions, particularly in cases where they have industrial regions that are adjacent to one another.

Amendment 16

Proposal for a directive Article 16 – title

Text proposed by the Commission

Amendment

Amendment to Directive 2003/35/EC

Amendments to Directive 2003/35/EC

Or. pl

Justification

The latter part contains a proposal to amend Article 2(2) of Directive 2003/35/EC by adding point (e), which makes it necessary to use the plural in the title of Article 16.

Amendment 17

Proposal for a directive

Article 16 – subparagraph 1 (new)

Directive 2003/35/EC

Article 2 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In Article 2(2) of Directive 2003/35/EC, the following subparagraph is added:

Member States shall ensure that the public is able to actively participate in the creation of such plans or programmes and their derivatives by applying direct democracy measures that are particular to that Member State, in particular through public consultations, surveys and local referenda, especially where the plan or programme being created is of major significance to the local populace.

Or. pl

Justification

The solution present in the current directive refers only to surveying opinion, but without making any demand for the wider application of direct democracy measures, i.e. obligatory public consultations on issues of significance to the local populace or, optionally, local referenda.