



29.6.2018

NOTICE TO MEMBERS

Subject: **Petition 0193/2012 by Erick Labrousse (French), on behalf of ‘Groupement pour le Respect des Fuseaux en Europe’, on the threshold values in Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe and, in this connection, the insufficient protection of public health and the environment**

1. Summary of petition

The petitioner expresses his dissatisfaction with the target values and long-term objectives of Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe and he also expresses severe criticism of the way in which France is enforcing the provisions relating to this area. He therefore calls on the Commission to take action with regard to France and to make the relevant threshold values more stringent.

2. Admissibility

Declared admissible on 13 June 2012. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 28 September 2012

Directive 2008/50/EC on ambient air quality and cleaner air for Europe¹ provides for an hourly nitrogen dioxide (NO₂) limit value of 200 µg/m³, not to be exceeded more than 18 times a calendar year and an annual limit value of 40 µg/m³. The limit values for NO₂ are applicable since 1 January 2010. According to this directive, Member States have, however, the possibility to notify the Commission of a postponement of the deadline to apply the limit values for NO₂ until 1 January 2015 at the latest. To be granted such a postponement the Member States have to fulfil certain conditions, inter alia they must have prepared an air quality plan showing how the limit values will be reached by the extended deadline.

¹ OJ L 152. 11.6.2008.

The Commission is currently evaluating the notification by the French government of a postponement of the deadline for attaining compliance with the limit values for NO₂ (letter of 8 March 2012). After an initial examination, the Commission has found that the notification is incomplete and has requested additional information from the French authorities. The French authorities submitted the additional information in June 2012. The Commission has nine months to assess the notification.

The Commission has launched a comprehensive review of EU air quality policies which is due to be completed in 2013. The review will focus, inter alia, on updating the scientific basis of the health and environment impact and will come forward, as necessary, with new proposals and revisions to existing proposals. More information can be found on the dedicated website and on the related CIRCA library publicly available at:-

http://ec.europa.eu/environment/air/review_air_policy.htm

Conclusion

Depending on the outcome of the evaluation of the French notification, the Commission will decide what further action may be needed.

4. Commission reply (REV), received on 30 April 2014

By Decision of 22 February 2013 C(2013)920 final the Commission decided to raise objections to all the zones notified by the French government of a postponement of the deadline for attaining compliance with the limit value for NO₂ notification.

According to the latest available report referring to year 2012, the NO₂ annual limit value was still exceeded in many French zones. As a result, in February 2014 the Commission requested French authorities to clarify the expected date of compliance and the measures taken to achieve compliance. In case the Commission is not satisfied with the answer, it will take further measures to address the non-compliance with the NO₂ limit values by France.

5. Commission reply (REV. II), received on 30 June 2015

In February 2014 the Commission had requested the French authorities to clarify the expected date of compliance with Article 13 of Directive 2008/50¹ and the measures taken under Article 23 of the same Directive with regard to NO₂. The answer was received in July 2014 and subsequently checked against the annual report referring to year 2013, which was submitted in September.

It appeared that the NO₂ annual limit value was still exceeded in nineteen French zones and agglomerations and the hourly limit value was exceeded in two of them. Having assessed the reply to the EU-pilot investigation and the annual data on ambient air quality, the Commission considers that the situation is not satisfactory in several zones and will soon take further measures to address this situation of non-compliance with the NO₂ limit values in France.

¹ OJ L 152, 11.6.2008.

Finally, it should be noted that in April 2015 the Commission addressed a reasoned opinion to the French authorities for the breach of Articles 13 and 23 with regard to PM₁₀.

6. Commission reply (REV III), received on 31 March 2017

The Commission is concerned about persistent exceedances of EU air quality standards as set in the Air Quality Directives and about the overall pace of progress in achieving the corresponding limit and target values and has therefore resolved to support and enhance the implementation of these Directives.

France has to comply with air quality standards as set in the Air Quality Directives and, in case of exceedances in a certain air quality zone or agglomeration of the environmental quality standards set under that legislation, the relevant competent authorities shall ensure that air quality plans are established and that these plans set out appropriate measures so that the exceedance period can be kept as short as possible.

The latest data officially made available to the Commission by the French authorities reports exceedances of the daily limit value for coarse particulate matter (PM₁₀) in 6 air quality zones and exceedances of the annual limit value in 2 air quality zones. Exceedances of the nitrogen dioxide (NO₂) hourly limit values have been reported in 2015 in 3 air quality zones and exceedances of the annual limit value in 15 air quality zones. In 2015, limit values were also exceeded for benzene (one air quality zone) and fine particulate matter PM_{2.5} (one air quality zone).

The Commission is actively supporting and enhancing the implementation of the Air Quality Directives, including supporting Member States' efforts to reduce emissions of key air pollutants. Nevertheless, it is primarily for the national competent authorities to ensure correct implementation and compliance with EU legislation, including the appropriate siting of sampling points. Moreover, the national administrative and/or judicial bodies in charge of the implementation of the EU legislation have better means to address specific situations of non-compliance if the concerns are found justified.

The Commission has taken legal action against Member States over poor air quality since 2008, focussing initially on coarse particulate matter (PM₁₀), for which the compliance deadline was 2005, and nitrogen dioxide (NO₂), for which the compliance deadline was 2010. In this context, the Commission has decided to undertake corrective action, by launching infringement proceedings against the French Republic for breaching the limit values for PM₁₀ and NO₂ in a number of air quality zones.

In April 2015, the Commission addressed a Reasoned Opinion to the French authorities for the breach of Articles 13 and 23 of Directive 2008/50/EC with regard to coarse particulate matter (PM₁₀) in 10 air quality zones.

Regarding nitrogen dioxide (NO₂), the Commission sent a Reasoned Opinion to France in February 2017 in view of the failure to ensure compliance with the annual limit value for NO₂ over the period 2010 to 2013 in 19 air quality zones, among them Paris, Marseille and Lyon. While it is up to the Member State authorities to choose the appropriate measures to address exceeding NO₂ limits, much more effort is necessary at local, regional and national levels to meet the obligations of EU rules and safeguard public health.

The European Commission recalls that in 2013, it carried out a review of EU air policy and that this review indicated that it is not appropriate to revise the Ambient Air Quality Directives. Instead, the Directives and the corresponding EU limit values will be kept under review, with a view to revision only once the revised National Emission Ceilings (NEC) Directive has set background concentrations on the right downward track.

Conclusion

The Commission will reassess the situation taking into consideration the air quality reports provided by the French authorities under the infringement procedures (both PM₁₀ and NO₂). In view of the outcome of these assessments, the Commission will decide on the most suitable avenues in both cases.

7. Commission reply (REV IV), received on 31 July 2017

As correctly indicated by the petitioner, Directive 2008/50/EC on ambient air quality and cleaner air sets target values and long-term objectives for several pollutants, including on ozone. The petitioner seems to request that Directive 2008/50/EC on ambient air quality and cleaner air should foresee a stronger role for target values and long-term objectives - which would require a revision of the Directive itself.

In accordance with the "Better Regulation Guidelines"¹, policy preparation should be supported by both retrospective performance evaluations and forward looking impact assessments. In 2013, the European Commission carried out a review of EU air policy and this review indicated that it was not appropriate to revise the Ambient Air Quality Directives (including Directive 2008/50/EC) at that time.

Instead, the review concluded that the Directives would be kept under review, with a view to revision only once the revised National Emission Ceiling Directive has set background concentrations on the right downwards track. Now that this is adopted Directive (EU) 2016/2284, the Commission will initiate an evaluation process (a so-called Fitness Check) of the EU Air Quality Directives under the Better Regulation framework.

The purpose of such an evaluation or fitness check is to assess whether the Directives and regulatory framework for a policy sector is "fit for purpose". Their goal is to assess the effectiveness, efficiency, coherence, relevance and EU added value of specific parts of the EU acquis, thus promoting better/smart legislation, making it more responsive to current and future challenges and helping improve implementation.

Meanwhile, the Commission is actively supporting and enhancing the implementation of the Air Quality Directives, also by actively supporting Member State efforts to reduce emissions of key air pollutants.

Having said this, it is primarily for the national competent authorities to monitor and ensure correct implementation and compliance with EU legislation, including the appropriate siting of sampling points. Moreover, the national administrative and/or judicial bodies in charge of

¹ http://ec.europa.eu/smart-regulation/guidelines/toc_guide_en.htm

the implementation of the EU legislation have better means to address specific situations of non-compliance if the concerns are found to be justified.

The Commission has taken legal action against Member States over poor air quality since 2008, focussing initially on coarse particulate matter (PM₁₀) and nitrogen dioxide (NO₂). In April 2015, the Commission addressed a Reasoned Opinion to the French authorities for the breach of Articles 13 and 23 of Directive 2008/50/EC with regard to coarse particulate matter (PM₁₀) in ten air quality zones.

Regarding nitrogen dioxide (NO₂), the Commission sent a Reasoned Opinion to France in February 2017 due to the failure to ensure compliance with the annual limit value for NO₂ over the period 2010 to 2013 in 19 air quality zones, among them Paris, Marseille and Lyon. Furthermore the Commission has alerted France (and other Member States) about its concerns that target values for ozone are not being met, and about the related health impacts, via bespoke country reports published as part of the Environmental Implementation Review in February 2017¹.

Conclusions

Evaluations and Fitness Checks are underpinned inter alia by public consultations that allow Member States and all relevant stakeholders to contribute to the process in a transparent manner. The Commission invites the petitioner to contribute to the upcoming stakeholder consultations planned under the Fitness Check of the EU Air Quality Directives.

The Commission will reassess the compliance of the situation in France taking into consideration the air quality reports provided by the authorities in correlation with the replies provided by the same authorities under the infringement procedures (both PM₁₀ and NO₂).

In view of the outcome of these assessments, the Commission will decide on the most suitable avenues in both cases.

8. Commission reply (REV V), received on 31 January 2018

Directive 2008/50/EC on ambient air quality and cleaner air sets target values and long-term objectives for several pollutants, including for ozone. The petitioner seems to request that Directive 2008/50/EC on ambient air quality and cleaner air should foresee a stronger role for target values and long-term objectives – which would require a revision of the Directive itself.

In accordance with the "Better Regulation Guidelines"², policy preparation should be supported by both retrospective performance evaluations and forward looking impact assessments. In 2013 the European Commission carried out a review of EU air policy and that this review indicated that it was not appropriate to revise the Ambient Air Quality Directives (including Directive 2008/50/EC) at the time. Instead, the review concluded that the Directives would be kept under review, with a view to revision only once the revised National

¹ see http://ec.europa.eu/environment/eir/country-reports/index_en.htm

² http://ec.europa.eu/smart-regulation/guidelines/toc_guide_en.htm

Emission Ceiling Directive has set background concentrations on the right downwards track.

Now that the Directive on the reduction of national emissions of certain atmospheric pollutants has been adopted Directive (EU) 2016/2284¹, the European Commission has initiated an evaluation process (a so-called fitness check) of the EU Ambient Air Quality (AAQ) Directives² under the Better Regulation framework. "Fitness checks" are comprehensive policy evaluations assessing whether the regulatory framework for a policy sector has been and still is fit for purpose. It includes an assessment of the extent to which the AAQ Directives still set appropriate objectives, i.e., address the most pressing air pollutants and set meaningful air quality standards to protect human health and ecosystems in accordance with the evolving scientific understanding. The fitness check of the AAQDs will focus on the period 2008 to 2018. A five-page roadmap for the Fitness Check of the AAQDs that has been under public consultation gives comprehensive information about the fitness check³

Meanwhile, the European Environment Agency (EEA) published its 'Air Quality in Europe – 2017 report'⁴, which indicates that air quality policies have delivered, and continue to deliver, many improvements. All primary and precursor emissions contributing to ambient air concentrations of particulate matter, ozone and nitrogen dioxide have decreased between the years 2000 and 2015 in the EU-28.

At the same time, air quality in France continues to give cause for severe concern. For the year 2014⁵, the EEA estimated that about 34,880 premature deaths were attributable to concentrations of fine particulate matter, 1630 to ozone concentrations and 9,330 to nitrogen dioxide concentrations. Furthermore, for the year 2015 it has been estimated that a significant part of the urban population in France was exposed to concentrations above EU air quality standards: i.e. 3.1% for nitrogen dioxide (NO₂), 1.1% for particulate matter (PM₁₀) and 18% ozone (O₃)⁶.

For 2016, exceedances above the EU air quality standards have been registered related to concentrations of nitrogen dioxide (NO₂) in 16 air quality zones and related to particulate matter (PM₁₀) in 3 air quality zones. Furthermore, one air quality zone (Paris) has indicated exceedances regarding fine particulate matter (PM_{2.5}). Target values are also exceeded for ozone concentrations in a large number of air quality zones, including Marseille. Finally, in a number of air quality zones, exceedances have also been reported for the target values for Nickel in PM₁₀ (in one air quality zone), for carbon monoxide (in two air quality zones) and for Benzo(a)pyrene in PM₁₀ (in two air quality zones).

The persistent breaches of air quality requirements set via EU legislation (in particular for PM₁₀ and NO₂), which have severe negative effects on health and environment, are being followed up by the Commission through infringement procedures covering all the Member States concerned, including France. The aim is that adequate measures are put in place to bring all zones into compliance.

¹ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3A0J.L_.2016.344.01.0001.01.ENG

² [Directives 2008/50/EC and 2004/107/EC](#)

³ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3763998_en

⁴ <https://www.eea.europa.eu/publications/air-quality-in-europe-2017>

⁵ <https://www.eea.europa.eu/publications/air-quality-in-europe-2017>

⁶ <https://www.eea.europa.eu/themes/air/country-fact-sheets/france>

A Reasoned Opinion referring to NO₂ exceedances was adopted in February 2017 for failing to address repeated breaches of air pollution limits for nitrogen dioxide in 19 air quality zones, among them Paris and Marseille.

Previously, also a Reasoned Opinion referring to PM₁₀ exceedances was adopted in April 2015 citing 10 air quality zones, including Paris and Marseille.

Conclusions

Evaluations and Fitness Checks are underpinned inter alia by public consultations informing European Commission analysis, thus allowing Member States and all relevant stakeholders to contribute in a transparent manner. The Commission invites the petitioner to contribute to the upcoming stakeholders consultations planned under the Fitness Check of the EU Ambient Air Quality Directives.

The findings of the fitness check will serve as a basis for drawing policy conclusions for the future of the relevant regulatory framework.

Furthermore, the Commission is currently assessing the results of the latest annual air quality reports submitted by France in conjunction with the latest data provided by the French authorities in their replies under the two on-going infringement procedures (referring to PM₁₀ and to NO₂, respectively). In the light of the outcome of this assessment, the Commission will decide on the most suitable steps.

9. Commission reply (REV VI), received on 29 June 2018

The Commission has initiated a fitness check¹ of the two EU Ambient Air Quality (AAQ) Directives². These Directives set air quality standards and requirements to ensure that Member States monitor and/or assess air quality in their territory, in a harmonized and comparable manner. The fitness check also considers the corresponding Implementing Decision 2011/850/EC and Commission Directive Directive (EU) 2015/1480.

The fitness check of the AAQ Directives will draw on the experience in all Member States, focusing on the period from 2008 to 2018 (i.e. the period in which both Directives were in force). It covers all the provisions of the two Directives, looking at the role they have played in meeting the objectives. The fitness check evaluates the relevance, effectiveness, efficiency, coherence and EU added value of the Directives. For more information on this fitness check see "Fitness check of the EU Ambient Air Quality Directives Roadmap"³.

The fitness check allows the public to participate effectively through a comprehensive stakeholder consultation. More information can be found on the dedicated website of the European Commission, notably on how to contribute to this consultation⁴ and on the

¹ Additional information regarding the fitness check can be found at

https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3763998_en

² Directives 2008/50/EC and 2004/107/EC

³ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3763998_en

⁴ http://ec.europa.eu/environment/air/quality/aqd_fitness_check_en.htm#_ftn1

consultation strategy¹.

Conclusion

Evaluations and Fitness Checks are underpinned *inter alia* by public consultations informing the Commission analysis, thus allowing Member States and all relevant stakeholders to contribute in a transparent manner. The Commission invites the petitioner to contribute to the consultation of the fitness check of the EU Ambient Air Quality Directives. The findings of the fitness check will serve as a basis for drawing policy conclusions for the future of the relevant regulatory framework.

The Commission is currently assessing the results of the latest annual air quality reports submitted by France in conjunction with the latest data provided by the French authorities in their replies under the ongoing infringement procedure on particular matter (PM₁₀). In light of the outcome of this assessment, the Commission will decide on the most suitable avenues in this case. Concerning the case on nitrogen dioxide (NO₂) exceedances, France is being referred to the Court of Justice of the European Union for failing to respect agreed air quality limit values and for failing to take appropriate measures to keep exceedance periods as short as possible².

¹ http://ec.europa.eu/environment/air/pdf/AQDs%20Fitness%20Check_consultation%20strategy.pdf

² http://europa.eu/rapid/press-release_IP-18-3450_en.htm