



Brussels, **XXX**
[...] (2013) **XXX** final

COMMISSION DECISION

of **XXX**

**on the notification by the Kingdom of Spain of a postponement of the deadline for
attaining the annual and hourly limit value for NO₂ in one air quality zone**

(Only the Spanish text is authentic)

COMMISSION DECISION

of 16.5.2013

on the notification by the Kingdom of Spain of a postponement of the deadline for attaining the annual and hourly limit value for NO₂ in one air quality zone

(Only the Spanish text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe¹, and in particular Article 22(4) thereof,

Whereas:

- (1) The air quality limit values for NO₂ have been legally binding since 1 January 2010 in accordance with Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air².
- (2) In accordance with Article 22(1) of Directive 2008/50/EC, a Member State may postpone the deadline until 1 January 2015 at the latest, by which conformity with the limit values for NO₂ shall be achieved, if the Member State demonstrates that conformity with the limit values cannot be achieved by 1 January 2010 and an air quality plan is established that demonstrates that such compliance will be achieved before the expiry of the new deadline.
- (3) The Kingdom of Spain submitted to the Commission by letter registered on 23 May 2012 a notification of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the annual and hourly limit value for NO₂ in one air quality zone (ES1301, Madrid).
- (4) The notification has been assessed in accordance with the guidance set out in the Commission Communication on notifications of postponements of attainment deadlines and exemptions from the obligation to apply certain limit values pursuant to Article 22 of Directive 2008/50/EC on ambient air quality and cleaner air for Europe³, ("the Communication") and with the Commission Staff Working Paper concerning guidance on preparing a notification of a postponement of the deadline for attaining the limit values for NO₂ under Directive 2008/50/EC⁴. The notification was submitted

¹ OJ L 152, 11.6.2008, p.1.

² OJ L 163, 29.6.1999, p.41.

³ COM(2008)403

⁴ SEC(2011)300

using the forms set out in the Staff Working Paper⁵ that accompanied the Communication.

- (5) The Commission identified certain relevant information as missing from the original notification and requested the Spanish authorities by letter dated 12 September 2012 to complete the notification. Since the Spanish authorities submitted essential additional information by letter registered on 25 October 2012, the period for the Commission's assessment of the notification starts from the day following the date of official receipt of that information.
- (6) The Spanish authorities have provided in the notification data for the year 2010 to be used as reference year and as basis for the assessment of the postponement of the attainment deadline for the NO₂ annual and hourly limit value in the notified zone. The Commission finds that the year 2010 is a relevant year to be used as basis for the assessment.
- (7) The Spanish notification was accompanied by an air quality plan (the City of Madrid Plan 2011-2015, adopted on 26 April 2012). The air quality plan fulfils the formal requirements provided for in Section A of Annex XV to Directive 2008/50/EC.
- (8) In order to assess whether the conditions for the NO₂ postponement are satisfied, it is necessary to identify the main sources of pollution contributing to the observed concentrations. That source apportionment should be precise enough to allow an understanding of which measures should be taken to address the main sources of pollution.
- (9) The Commission finds that the source apportionment provided by the Spanish authorities for all zones is complete for all scales. The Spanish authorities have identified local traffic as the main source contributing to the high NO₂ concentration levels (local background total 83%, of which traffic 70%).
- (10) In order to assess if conformity with the limit values for NO₂ could not have been achieved by 1 January 2010, it is necessary to consider when an exceedance triggering abatement action pursuant to Directive 1999/30/EC first occurred in the notified zone and whether relevant measures have been taken in relation to the identified sources.
- (11) According to the information submitted by the Spanish authorities, exceedances triggering an obligation to take abatement action with regard to NO₂ concentrations were recorded for the first time in 2004. Air quality plans addressing the main relevant pollution sources were adopted before the initial attainment deadline (2006-2010 City of Madrid Plan and 2006-2012 Blue Plan for the Community of Madrid). The Spanish authorities explain that some of the transport related measures implemented before 2010 did not deliver as planned inter alia due to higher than expected real world NO_x emissions and primary NO₂ emissions of vehicles. The Commission notes that the time lapse to adapt the air quality plans to those new findings in order to reach compliance in 2010 was relatively short.

⁵ SEC(2008)2132

- (12) The Commission therefore finds that it was likely that despite the abatement actions taken by the Spanish authorities, conformity with the limit values for NO₂ could not be achieved by 1 January 2010.
- (13) In order to assess if compliance with the annual and hourly limit value for NO₂ can be achieved by the new deadline, it is necessary to consider the concentration levels estimated at that date by the Member State, and the estimated impact of additional measures proposed to ensure compliance in the air quality plan accompanying the notification.
- (14) The Commission notes that given the impacts on public health, the duration of any postponement must be restricted to what is absolutely necessary. An assessment should therefore be made of whether compliance can be achieved earlier than the deadline proposed in the notification. The Commission also notes that the annual limit value was exceeded at 18 monitoring sites in the reference year 2010.
- (15) In order to assess whether the projected compliance by the new deadline is realistic, the Commission requires precise and detailed evidence on the scale and impact of the abatement action planned including a clear implementation timetable for that action.
- (16) The Spanish authorities state that compliance with the annual limit value will be reached in 2014. However, compared to the annual limit value of 40 µg/m³, the compliance gap in 2010 was greater than 10 µg/m³ in six monitoring stations, and the year 2011 data even show a negative trend with seven monitoring station exceeding the limit value by more than 10 µg/m³ and two monitoring stations exceeding it by more than 20 µg/m³ (compared to one in 2010).
- (17) The maximum total effect of measures indicated by the Spanish authorities would deliver a reduction of 19 µg/m³ while the maximum compliance gap observed in 2010 was 28 µg/m³. As a result, the Commission finds that it cannot fully assess whether the proposed abatement action is sufficient for achieving compliance with the annual limit value for NO₂ by 1 January 2015 and considers that it would be necessary to include more stringent abatement action in the relevant air quality plans if compliance is to be achieved by the new deadline.
- (18) As regards the hourly limit value, the Directive allows 18 exceedances per calendar year, while the limit value in the reference year was exceeded more than 18 times in 6 monitoring stations, and 76 times in station ES1943A. Due to the large compliance gap and the high annual mean levels, the Commission considers that additional measures would be needed to reduce the annual mean value, and such measures should where necessary be combined with specific measures to comply with the hourly limit value.
- (19) The Commission therefore considers that it is not demonstrated that compliance will be achieved at the expiry of the maximum postponement period.
- (20) The Commission notes, as regards the status of implementation of the Union legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, that the Kingdom of Spain has exceeded the 2010 national emission ceiling set for nitrogen

oxides pursuant to Directive 2001/81/EC⁶. Compliance with the obligations under that Directive is important to ensure that the limit values under Directive 2008/50/EC, and in particular the limit values for NO₂, can be met both in the Kingdom of Spain and neighbouring Member States. The Commission therefore expects that the necessary effort is taken to achieve the national emissions ceilings.

- (21) Against that background, the Commission finds that objections should be raised to the postponement of the deadline for attaining the annual and hourly limit value for NO₂ on the grounds that the Spanish authorities have not demonstrated that compliance with such limit values can be achieved in 2014.

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised to the notification by the Kingdom of Spain of a postponement of the deadline for attaining the annual and hourly limit values for NO₂ set out in Annex XI to Directive 2008/50/EC in zone ES1301 (Madrid).

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels,

For the Commission
Janez Potočnik
Member of the Commission

⁶ OJ L 309, 27.11.2001, p. 22.