



EUROPEAN COMMISSION

Brussels, 2.12.2011
C (2011) 8793

COMMISSION DECISION

of XXX

**on the notification by the Kingdom of Denmark of a postponement of the deadline for
attaining the limit values for NO₂ in two air quality zones**

(Only the Danish text is authentic)

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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 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) Denmark submitted to the Commission by letter registered on 1 March 2011 a notification of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the annual limit value for NO₂ in three air quality zones (Copenhagen, Aarhus and Aalborg).
- (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

¹ OJ L 152, 11.6.2008, p.1.

² OJ L 163, 29.6.1999, p.41.

³ COM(2008)403

the limit values for NO₂ under Directive 2008/50/EC⁴. The notification was submitted 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 Danish authorities by letter dated 30 May 2011 to complete the notification. Since the Danish authorities submitted essential additional information by letter dated 17 June 2011 the period for the Commission's assessment of the notification starts from the day following the date of official receipt of that information, i.e. 21 June 2011. In the letter the Danish authorities also withdrew the notification of a postponement of the deadline for attaining the limit values for NO₂ in one air quality zone (Aalborg). As a consequence, the Commission has only assessed the notification of a postponement of the deadline for attaining the limit values for NO₂ in the two zones listed in the Annex to this Decision.
- (6) The Danish authorities have provided in the notification data for the year 2008 to be used as reference year and as basis for the assessment of the postponement of the attainment deadline for the NO₂ annual limit value in the two zones. The Commission finds that since the notification was submitted after the initial deadline for attainment, 2010 should be used as reference year. Nevertheless, the Commission acknowledges that the 2010 data may not have been available on time for submitting the notification in the first half of 2011. Therefore, the Commission finds that the year 2008 may be used as a basis for the assessment.
- (7) The Danish notification was accompanied by air quality plans that fulfil the requirements provided for in Section A of Annex XV to Directive 2008/50/EC for the two zones.
- (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 Danish authorities for the two notified zones is complete for all scales. The Danish authorities have identified traffic as the main source contributing to the high NO₂ concentration levels at the local and urban levels in those zones. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the Danish authorities gives a relevant and reasonable basis for the assessment.
- (10) Denmark has notified a postponement of the deadline for attaining the annual limit value for NO₂ in both zones until 1 January 2015.
- (11) 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

⁴ SEC(2011)300

⁵ SEC(2008)2132

abatement action pursuant to Directive 1999/30/EC first occurred in both zones and whether relevant measures have been taken in relation to the identified sources.

- (12) As regards zone 1 (Copenhagen), according to the information submitted by the Danish authorities, exceedances triggering an obligation to take abatement action with regard to NO₂ concentrations were recorded for the first time in 2003. As regards zone 2 (Aarhus), compliance was expected by the original deadline of 2010 as the limit value with the relevant margin of tolerance has been achieved from 2003 onwards. According to the data provided by the Danish authorities compliance with the annual limit value for NO₂ in Aarhus has been achieved for the first time in 2010.
- (13) The Commission notes that the relevant sources have been addressed in both zones. Although the first air quality plan for both zones was adopted only in 2011 a number of measures, mainly addressing the traffic sources, have been taken since 1974. Nevertheless, the impact of many of those measures is reported as marginal. The most important measure, i.e. the creation of low emission zones, was implemented before and in the year of the initial attainment date, i.e. in 2008 for zone 1 and in 2010 for zone 2.
- (14) The Commission finds that it was likely that despite the abatement actions taken by the Danish authorities conformity with the annual limit value for NO₂ could not be achieved by 1 January 2010 in zone 1.
- (15) In order to assess if compliance with the annual 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.
- (16) The Commission notes that the Danish authorities have requested the maximum permitted postponement for compliance with the annual limit value for NO₂ in zone 1, i.e. until 1 January 2015. 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.
- (17) 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.
- (18) As regards zone 1, the air quality plan provided by the Danish authorities projects compliance in 2015 in zone 1. However, the projections are based on an expected concentration level in 2010 (48 µg m⁻³) that is substantially lower than the actual measured level in 2010 (56 µg m⁻³). Considering the latter level, therefore a more realistic starting point, the gradual projected reduction of NO₂ concentration levels would result in an annual average in 2015 above the limit value. According to the Danish authorities the high levels of NO₂ concentration in 2010 are due to temporary local construction works. However, no evidence supporting this assumption and no information on the date by which the construction works would be completed has been submitted by the Danish authorities. Therefore, the Commission cannot fully assess whether the proposed abatement action is sufficient for achieving compliance with the annual limit value for NO₂ by 1 January 2015.

- (19) As regards zone 2, the air quality plan provided by the Danish authorities projects compliance in 2015. However, the additional information provided by the Danish authorities shows that compliance has already been achieved in 2010 in that zone. The Commission finds that it is likely that the concentration levels in zone 2 can be maintained below the relevant limit value in accordance with Article 12 of Directive 2008/50/EC and that, in view of the compliance achieved, the NO₂ limit values laid down in Annex XI to Directive 2008/50/EC should continue to apply in zone 2 without a margin of tolerance.
- (20) As regards the implementation by the Danish authorities of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that the Danish authorities have provided the required information for both zones.
- (21) The Commission is satisfied that the Danish authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC.
- (22) Against that background, the Commission finds that objections should be raised against the postponement of the deadline for attaining the annual limit value for NO₂ in zone 1, on the grounds that Denmark has not demonstrated that compliance with that limit value can be achieved by that date.
- (23) As regards zone 2, the Commission finds that objections should be raised against the postponement of the deadline for attaining the annual limit value for NO₂, on the grounds that compliance has already been achieved.

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised against the notification by the Kingdom of Denmark of a postponement of the deadline for attaining the annual limit value for NO₂ set out in Annex XI to Directive 2008/50/EC in zones 1 and 2 as specified in the Annex to this Decision.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, [...]

For the Commission
Janez Potočnik
Member of the Commission

ANNEX

Zones and agglomerations covered by the notification in accordance with the delimitations applicable in the annual air quality report for the reference year 2008.

Zone number	Zone code	Zone name	Daily and/or annual limit values
1	DK0001	Copenhagen	a
2	DK0002	Aarhus	a