COMMISSION DECISION

of 30.4.2014

on the resubmission by Italy of a postponement of the deadline for attaining the limit values for NO₂ in 10 air quality zones

(Only the Italian 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/EC².

(2) In accordance with Article 22(1) of Directive 2008/50/EC, a Member State may postpone the deadline by a maximum of five years, subject to the procedure laid down in Article 22(4), 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) By letters registered on 20 September 2011 and 16 January 2012 respectively, Italy submitted to the Commission a notification of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the limit values for NO₂ in 48 air quality zones.

(4) By Decision C(2012)4524 final of 6 July 2012 the Commission raised objections as regards a number of zones, because the conditions laid down in Article 22 (1) and (4) of Directive 2008/50/EC were not met.

(5) By letter registered on 30 July 2013, Italy notified the Commission again of its intention to postpone the deadline with regard to ten air quality zones covered by Decision C(2012)4524 final.

(6) The new 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 Europe\(^3\), ("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 NO\(_2\) under Directive 2008/50/EC\(^4\). The notification was submitted using the forms set out in the Staff Working Paper\(^5\) that accompanied the Communication.

(7) In their resubmission, Italy have provided data for the years 2009-2010 to be used as reference years and as basis for the assessment of the postponement of the attainment deadline for the NO\(_2\) annual limit value in the notified zones.

(8) In order to assess whether the conditions for the NO\(_2\) postponement are satisfied, the air quality plan submitted has to identify the main sources of pollution contributing to the observed concentrations. The source apportionment should be precise enough to allow an understanding of which measures should be taken to address the main sources of pollution. The Commission finds that the source apportionment provided by Italy for all notified zones is complete for all scales.

(9) According to Article 22(1) of Directive 2008/50/EC, Member States must establish an air quality plan demonstrating how conformity with the limit values will be achieved in the relevant zones before the new deadline. The plan must meet the minimum requirements set out in Section A of Annex XV to Directive 2008/50/EC and must according to Article 22(4) of that Directive be communicated to the Commission together with the notification.

(10) As regards zones 2, 6, 7 and 9 the new information submitted by Italy demonstrate that compliance is likely to be reached by the new deadline as a result of the additional measures and of a more comprehensive input in the emissions projections, showing that the compliance gap can be closed.

(11) In the case of zone 10, although compliance is projected by the new deadline the Commission notes several uncertainties due to the fact that several installations seem to be operating without a permit required under Directive 2010/75/EU of the European Parliament and of the Council\(^6\), and not all abatement measures have been considered: in particular, while the source apportionment shows that shipping accounts for 30% of local emissions no measures have been envisaged for this specific sector, the result being that the measures in place are insufficient or absent in two key sectors identified in the source apportionment (industrial installations and shipping). The Commission therefore considers that additional measures should be taken in zone 10 in the above two sectors with a view to ensuring that compliance with the annual limit value for NO\(_2\) is achieved by 1 January 2015.

(12) As regards zone 1, the information submitted by Italy does not demonstrate that compliance with the NO\(_2\) limit values will be achieved by 1 January 2015. A number

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\(^3\) COM(2008)403  
\(^4\) SEC(2011)300  
\(^5\) SEC(2008)2132  
of measures have already been taken in this zone and additional measures are being introduced but, due to the magnitude of the compliance gap, they are not expected to ensure compliance by the new deadline.

(13) As far as zones 3 and 4 are concerned, no additional measures have been taken compared to the earlier notification and no abatement measures have been considered as regards shipping, which represents 40% of local emissions in zone 4. In fact, the Commission notes that on the one hand Italy in its annual report pursuant to Commission Decision 2004/461/EC\(^7\) indicates compliance with the limit value for these zones, on the other (in the documents attached to the notification registered on 30 July 2013) they claim that some monitoring stations showing a situation of non-compliance will be moved as they do not meet all the criteria laid down in the national legislation transposing the Directive. As a result, due to the conflicting information received, the Commission finds that it cannot fully assess the compliance status of the two zones nor the need for a postponement.

(14) As regards zones 5 and 8, the Commission notes that compliance with the limit values was already achieved in 2012. Article 22(1) of Directive 2008/50/EC provides that the deadline to comply with the limit values for NO\(_2\) may be postponed by a maximum of five years only where strictly necessary, and this possibility being an exception to the general rule, it should be interpreted narrowly. The Commission therefore finds that the concentration levels in zones 5 and 8 should be maintained below the annual limit value in accordance with Article 12 of Directive 2008/50/EC.

(15) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that not all abatement measures have been considered in zones 3, 4 and 10 and no detailed justification for this has been provided.

(16) Against that background, the Commission finds that objections should be raised to the postponement of the deadline for attaining the annual limit value for NO\(_2\) in zones 1, 3 and 4 on the grounds that the Italian authorities have not demonstrated that compliance with the limit values will be achieved by 1 January 2015 at the latest.

(17) As regards zones 5 and 8, the Commission finds that objections should be raised against the postponement of the deadline for attaining the annual limit value for NO\(_2\), on the grounds that compliance has already been achieved.

(18) As regards zones 2, 6, 7 and 9, no objections should be raised to the postponement of the deadline for attaining the annual limit value for NO\(_2\).

(19) As regards zone 10, the Commission finds that no objections should be raised to the postponement of the deadline for attaining the annual limit value for NO\(_2\) provided that the respective air quality plans are adjusted as appropriate to ensure that compliance with the annual NO\(_2\) limit value is achieved by 1 January 2015 at the latest.

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(20) During the postponement period the annual limit value for NO\textsubscript{2} continues to apply together with a maximum margin of tolerance in accordance with Article 22(3) of Directive 2008/50/EC. In order to provide the Commission with the means for verifying compliance with that provision, Italy should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the annual NO\textsubscript{2} limit value plus the maximum margin of tolerance in zones 2, 6, 7, 9 and 10.

(21) The postponement should apply to the air quality zones 2, 6, 7, 9 and 10 as they were defined in the respective reference year as listed in the Annex to this Decision. In order to ensure that the postponement applies to the territory as defined in this Decision, any changes to the delimitation of those zones during the postponement period should be subject to prior approval by the Commission.

HAS ADOPTED THIS DECISION:

**Article 1**

1. No objections are raised to the postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zones 2, 6, 7 and 9 specified in the Annex to this Decision, as they were defined in the respective reference year as listed in the Annex. The postponement in those zones shall apply until 31 December 2014.

2. No objections are raised to the postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} in zone 10 specified in the Annex to this Decision, provided that the relevant air quality plans are adjusted with a view to ensuring that compliance with the annual limit value for NO\textsubscript{2} is achieved by 1 January 2015. Italy shall notify the adjusted plans to the Commission as soon as possible, taking into account the time-scale necessary to carry out the national procedures to amend the plans without undue delay.

3. Objections are raised to the notification by Italy of a postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zones 1, 3, 4, 5 and 8 as specified in the Annex to this Decision.

**Article 2**

1. Italy shall, for each calendar year until the date of expiry of the respective postponement period, provide the Commission with data indicating that the concentration levels in zones 2, 6, 7, 9 and 10 are below the annual limit value for NO\textsubscript{2} plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC. That data may be provided through the annual submission of the questionnaire referred to in the Commission Implementing Decision 2011/850/EU\textsuperscript{8}.

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2. Italy shall for the calendar year following the date of expiry of the respective postponement period provide the Commission with information confirming that compliance with the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC has been achieved in zones 2, 6, 7, 9 and 10.

3. Changes to the delimitation of the air quality zones 2, 6, 7, 9 and 10 as compared to the delimitation that applied in the respective reference year as listed in the Annex to this Decision during the postponement period that may affect the scope of the postponement shall be subject to prior approval of the Commission.

\textit{Article 3}

This Decision is addressed to the Italian Republic.

Done at Brussels, 30.4.2014

\textit{For the Commission}

Janez POTOČNIK

Member of the Commission