COMMISSION DECISION

of XXX

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

(Only the Bulgarian text is authentic)
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of 5.9.2012

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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) The Bulgarian authorities submitted to the Commission by letter registered on 12 October 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 as well as the hourly NO₂ limit value in two zones (BG0001 Sofia and BG0002 Plovdiv).

(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

³ COM(2008)403
⁴ SEC(2011)300
using the forms set out in the Staff Working Paper\(^5\) that accompanied the Communication.

(5) The Commission identified certain relevant information as missing from the original notification and requested the Bulgarian authorities by letter dated 14 November 2011 to complete the notification. Since the Bulgarian authorities submitted essential additional information by letter registered on 11 January 2012, 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. 12 January 2012.

(6) The Bulgarian authorities have provided in the notification data for the year 2010 to be used as reference year and base year from which the projections were made to calculate concentration levels by 2015. The Commission finds that since the notification was submitted after the initial deadline for attainment, 2010 should be used as reference and base year.

(7) 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 and must according to Article 22(4) be communicated to the Commission together with the notification.

(8) The Bulgarian notification was accompanied by air quality plans for all notified zones. The air quality plans fulfil all the requirements provided for in Section A of Annex XV to Directive 2008/50/EC. For both zones (BG0001: Sofia and BG0002: Plovdiv), detailed projections are available based on dispersion modelling. Compliance is projected for 2014, which seems reasonable although uncertainties remain about the ability of the model to address hotspot locations.

(9) In order to assess if conformity with the limit values for NO\(_2\) 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 all zones and whether relevant measures have been taken in relation to the identified sources.

(10) The first exceedance of the annual and hourly limit value in Sofia was reported in 2006 and in Plovdiv in 2009. An air quality programme covering NO\(_2\) was established for Sofia in 2005 and for Plovdiv in 2011. Taking into account the large compliance gap in both zones and the fact that the exceedances in Plovdiv were recorded for the first time very close to the 2010 attainment date, it is reasonable to assume that compliance would not have been possible by 2010 in these zones. The Commission finds therefore that it was likely that conformity with the respective limit value for NO\(_2\) could not have been achieved by 1 January 2010.

(11) In order to assess if compliance with the hourly or annual limit value for NO\(_2\) 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

\(^{5}\) SEC(2008)2132
measures proposed to ensure compliance in the air quality plan accompanying the notification.

(12) 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.

(13) For both zones, the Bulgarian authorities have provided data on projected NO₂ concentration levels in 2014 that seem reasonable and realistic. The projections are based on well-documented emission data and on dispersion modelling. The results of the projection seem to be reasonable, considering that the maximum value projected by the model is well below the limit value.

(14) The measures taken to address the main sources of NO₂ pollution and their timetable are appropriate to the specific circumstances of the case and take into consideration all measures listed in part 3 of Section B in Annex XV of Directive 2008/50/EC.

(15) As regards the implementation by the Bulgarian authorities of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that the Bulgarian authorities have provided the required information for all zones.

(16) In the light of the above, the Commission finds that no objections should be raised to the postponement of the deadline for attaining the limit values for NO₂ until 2014.

(17) During the postponement period the limit values for NO₂ continue 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, the Republic of Bulgaria should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the annual and hourly NO₂ limit value plus the maximum margin of tolerance in the zones covered by this Decision.

(18) The postponement should apply to the air quality zones BG0001: Sofia and BG0002: Plovdiv as they were defined in the respective reference year. 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 and hourly limit values for NO₂ set out in Annex XI to Directive 2008/50/EC in zones BG0001 Sofia and BG0002 Plovdiv.

2. The postponement in those zones shall apply until 31 December 2013.
Article 2

1. The Republic of Bulgaria 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 the zones indicated under Article 1 are below the limit values for NO\textsubscript{2} plus the maximum margins 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 Article 1 of Commission Decision of 29 April 2004 laying down a questionnaire to be used for annual reporting on ambient air quality assessment under Council Directives 96/62/EC and 1999/30/EC and under Directives 2000/69/EC and 2002/3/EC of the European Parliament and of the Council\textsuperscript{6}.

2. The Republic of Bulgaria 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 and hourly limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC has been achieved.

3. Changes to the delimitation of the air quality zones indicated in Article 1 as compared to the delimitation that applied in the respective reference year during the postponement period that may affect the scope of the postponement shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the Republic of Bulgaria.

Done at Brussels,

For the Commission
Janez Potočnik
Member of the Commission

\textsuperscript{6} OJ L 156, 30.4.2004, p.84.