COMMISSION DECISION

of XXX

on the notification by the Czech Republic of a postponement of the deadline for attaining the limit values for NO₂ in 4 air quality zones

(Only the Czech text is authentic)
COMMISSION DECISION

of 12.7.2012

on the notification by the Czech Republic of a postponement of the deadline for attaining the limit values for NO\textsubscript{2} in 4 air quality zones

(Only the Czech 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 Europe\(^1\), and in particular Article 22(4) thereof,

Whereas:

(1) The air quality limit values for NO\textsubscript{2} 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 air\(^2\).

(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 NO\textsubscript{2} 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 Czech Republic submitted to the Commission by letter registered on 8 January 2009 a first notification of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the annual limit value for NO\textsubscript{2} in one air quality zone (CZ010 Praha). However, by a Decision of 28 September 2009,\(^3\) the Commission objected to this notification on the ground that it could not assess whether conformity with the annual limit value for NO\textsubscript{2} could have been met by 1 January 2010 as the information communicated by the Czech authorities lacked a complete and unambiguous source apportionment, projections for the concentration levels in 2010 and more specific information on the implementation of the abatement measures and their impact. The Commission raised also objections against this notification since it had been unable to fully assess whether compliance with the annual limit value for


\[^3\] Commission Decision of 28 September 2009 on the notification by the Czech Republic of a postponement of the deadline for attaining the limit values for NO\textsubscript{2} and an exemption from the obligation to apply the limit values for PM10, C(2009)7172 final.
NO₂ could be achieved by 1 January 2015 as the notification did not provide precise and detailed evidence that the proposed abatement action was sufficient.

(4) The Czech Republic submitted to the Commission by letter registered on 10 October 2011 a new 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 four air quality zones, including CZ010 Praha (zone 1), CZ042 Ústecký kraj (zone 2), CZ080 Moravskoslezský (zone 3) and CZ0642 Brno (zone 4) and for achieving the hourly limit value for NO₂ in one air quality zone (CZ010 Praha – zone 1).

(5) 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 Europe⁴, ("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/EC⁵. The notification was submitted using the forms set out in the Staff Working Paper⁶ that accompanied the Communication.

(6) The Commission identified certain relevant information as missing from the original notification and requested the Czech authorities by letter dated 1 December 2011 to complete the notification. Since the Czech authorities submitted essential additional information by letter dated 20 December 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. 26 December 2011.

(7) The Czech 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 limit values in the four air quality zones. The Commission finds that since the notification was submitted after the initial deadline for attainment, 2010 should be used as reference year.

(8) The notification by the Czech Republic was accompanied by air quality plans for all notified zones. The air quality plans fulfil most of the requirements provided for in Section A of Annex XV to Directive 2008/50/EC. The assessment shows, however, that the air quality plans elaborated for zones 1, 2 and 3 lack evidence on how compliance would be achieved by 1 January 2015 and contain inconsistent information regarding estimates of the planned improvement of the air quality and of the expected time required to attain compliance. The Commission notes, however, that the estimated effects for some measures are provided and that total concentrations are available as well as information on national measures.

(9) 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

---

⁴ COM(2008)403
⁵ SEC(2011)300
⁶ SEC(2008)2132
understanding of which measures should be taken to address the main sources of pollution.

(10) The Commission finds that the source apportionment provided by the Czech authorities for all notified zones is complete for all scales. The Czech authorities have identified road traffic as the main source contributing to the high NO$_2$ concentration levels at the local and urban levels in all zones. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the Czech authorities gives a relevant and reasonable basis for the assessment.

(11) 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.

(12) According to the information submitted by the Czech authorities, exceedances of the NO$_2$ annual limit value triggering an obligation to take abatement action were recorded for the first time in 2004 in zone 1, in 2006 in zone 4, in 2008 in zone 3 and in 2009 in zone 2. As to the applicable hourly limit value for NO$_2$, it has been exceeded together with its margin of tolerance for the first time in 2003 in zone 1. In the four air quality zones, air quality plans were established within two years of the first exceedance of the relevant NO$_2$ limit value plus its margin of tolerance. The air quality plans addressed all major sources of NO$_2$ emissions by at least one measure at local, regional or urban level, in particular in view of promoting the use of public transport and of reducing road traffic, including heavy trucks traffic, in urban areas.

(13) The Czech authorities have stated that compliance with the NO$_2$ limit values by the initial deadline of 1 January 2010 could not be achieved in zone 1 since the implementation, in particular, of the measures needed to divert transit traffic from the city centre of Prague required a significant amount of time. Concerning zones 2, 3 and 4, the Czech authorities have declared that compliance with the NO$_2$ limit values by the initial deadline of 1 January 2010 was foreseen but that it failed as the effects of the measures that had been undertaken, including the construction of road bypasses and of infrastructures for cycling and pedestrian traffic, the improvement of the heating systems in public buildings and the promotion of integrated regional public transport, were lower than expected and would require more time to lead to sufficient NO$_2$ emission reductions.

(14) On the basis of the information provided by the Czech Republic, the Commission finds therefore that it was likely that, despite the abatement actions taken by the Czech authorities, conformity with the respective limit value for NO$_2$ could not be achieved by 1 January 2010 in any of the notified zones.

(15) 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 measures proposed to ensure compliance in the air quality plan accompanying the notification.
The Commission notes that the Czech authorities have requested the maximum permitted postponement for compliance with the limit values for NO\textsubscript{2} in all notified zones, 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.

In order to assess whether the projected compliance by the 2015 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.

Compliance with the annual and hourly NO\textsubscript{2} limit values is projected by 1 January 2015 in zone 1. The air quality plan applicable to the Prague agglomeration, as updated in November 2010, foresees the implementation of several measures by 2015, which address, in particular, the NO\textsubscript{2} emissions generated by road traffic. The Commission notes that the information submitted by the Czech Republic lacks clarity and certainty regarding which measures foreseen in the updated air quality plan will be implemented by 2015 and stresses that none of those measures address the industry sector whose contribution to NO\textsubscript{2} concentrations in zone 1 amounts to 14%.

The projections communicated by the Czech authorities provide that the measures listed in the updated air quality plan applicable to the Prague agglomeration, if fully implemented, should reduce, by 1 January 2015, NO\textsubscript{2} annual average concentrations in zone 1 by 6 to 24 µg/m\textsuperscript{3}. However, the Commission notes that the information communicated by the Czech authorities lacks consistency over the projected NO\textsubscript{2} emission reductions achievable by these measures. The Czech authorities project compliance in 2015 in zone 1 on the basis of a baseline level of 48 µg/m\textsuperscript{3}. Yet, whilst this baseline level results from the average of the NO\textsubscript{2} annual means measured in 2010 at the four monitoring stations situated in that zone, the Commission notes that the baseline level that must be applied is 67,3 µg/m\textsuperscript{3} as the highest NO\textsubscript{2} annual average concentration that was measured in 2010 at one of the monitoring stations in zone 1. Therefore, the Commission finds that the Czech Republic has not demonstrated that the implementation of the existing and additional measures foreseen in the updated air quality plan applicable to the Prague agglomeration would lead to compliance by 1 January 2015 in zone 1 with the annual NO\textsubscript{2} limit value especially as the projected reduction of NO\textsubscript{2} concentrations by 6 to 24 µg/m\textsuperscript{3} would not be sufficient to close the compliance gap between the baseline level (67,3 µg/m\textsuperscript{3}) and the annual NO\textsubscript{2} limit value to be met (40 µg/m\textsuperscript{3}).

As regards compliance in 2015 in zone 1 with the hourly NO\textsubscript{2} limit value, the Commission is of the opinion that the projected reduction of the annual average NO\textsubscript{2} concentrations by 24 µg/m\textsuperscript{3} would ensure compliance with the hourly limit value for NO\textsubscript{2}. Therefore, the Commission finds that it is likely that compliance with the hourly NO\textsubscript{2} limit value can be achieved in zone 1 by 1 January 2015.

As regards zones 2 and 3, compliance with the annual NO\textsubscript{2} limit value is projected by 1 January 2015 in both zones. The regional air quality plans in zones 2 and 3 foresee the implementation of a set of measures by 2015, which address the main contributors to the high NO\textsubscript{2} concentration levels in these zones, road traffic and the industry sector. The Commission notes that the information submitted by the Czech Republic lacks certainty over the projected NO\textsubscript{x} emission reductions achievable by these
measures and does not provide full certainty concerning the implementation and finalisation by 2015 of the measures listed in the applicable air quality plans. The projections communicated by the Czech authorities provide that the measures listed in the applicable air quality plans, if fully implemented, should reduce, by 1 January 2015, NO₂ annual average concentrations by 2 to 6 µg/m³ in zone 2 and by 4 to 9 µg/m³ in zone 3. The Czech authorities project compliance in 2015 on the basis of a baseline level of 47.8 µg/m³ in zone 2 and of 50.9 µg/m³ in zone 3. Accordingly, the compliance gap between the baseline level and the annual NO₂ limit value to be met amounts to 7.8 µg/m³ in zone 2 and to 10.9 µg/m³ in zone 3 which is higher than the reductions foreseen by the abatement measures included in the relevant air quality plans. The Commission finds therefore that the Czech Republic even though it projects compliance by the new deadline in its notification has not demonstrated that the implementation of the existing and additional measures foreseen in the air quality plans applicable to zones 2 and 3 would lead to compliance with the annual NO₂ limit value by 1 January 2015 in these zones.

(22) As regards zone 4, compliance with the annual NO₂ limit value is projected by 1 January 2015. The regional air quality plan applicable to zone 4 foresees the implementation of a set of measures by 2015, which address the NO₂ emissions produced by road traffic. With the implementation of these measures, the Commission finds that it is likely that compliance with the annual NO₂ limit value will be achieved by the extended deadline. In view of the important reductions that must be achieved, it is however essential that the competent authorities ensure that the measures foreseen in the air quality plan are implemented strictly and on time to deliver the necessary effect by the new attainment date.

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

(24) The Commission is satisfied that the Czech authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC.

(25) Against that background, the Commission finds that no objections should be raised to the postponement of the deadline for attaining the hourly limit value for NO₂ until 1 January 2015 in zone 1.

(26) Objections should be raised to the postponement of the deadline for attaining the annual limit value for NO₂ in zones 1, 2 and 3 on the grounds that the Czech Republic has not demonstrated that compliance with this limit value can be achieved by 1 January 2015 or earlier.

(27) As regards zone 4, no objections should be raised to the postponement of the deadline for attaining the annual limit value for NO₂ until 1 January 2015.

(28) During the postponement period the NO₂ hourly limit value in zone 1 and the annual limit value for NO₂ in zone 4 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 Czech Republic should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the hourly NO₂ limit value plus
the maximum margin of tolerance in zone 1 and the annual NO\textsubscript{2} limit value plus the maximum margin of tolerance in zone 4.

(29) In order to ensure that the Commission can check the implementation of the air quality plans and the relevant abatement action, the Czech Republic should provide information to the Commission for zones 1 and 4 on the assessment of air quality as regards the area in exceedance, the length of road in exceedance and the population exposed in the calendar year following the date of expiry of the postponement period.

(30) The postponement should apply to the air quality zones 1 and 4 as they were defined in the reference year 2010. 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 hourly limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zone 1 as specified in the Annex to this Decision and the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zone 4 as specified in the Annex to this Decision. The postponement shall apply until 1 January 2015.

2. Objections are raised to the notification by the Czech Republic 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, 2 and 3 as specified in the Annex to this Decision.

**Article 2**

1. The Czech Republic shall, for the calendar years 2010 to 2014 inclusive, provide the Commission with data indicating that the concentration levels in zone 1 and 4 are respectively below the hourly and the annual limit values 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 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{7}.

2. The Czech Republic shall, by 30 September 2016 at the latest, provide the Commission with information confirming that compliance with the hourly and annual limit values for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC have been achieved in zones 1 and 4.

\textsuperscript{7} OJ L 156, 30.4.2008, p.84.
3. Changes to the delimitation of the air quality zones 1 and 4 as compared to the delimitation that applied in the reference year 2010 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 Czech Republic.

Done at Brussels,

\textit{For the Commission}
\textit{Janez Potočnik}
\textit{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 2010

<table>
<thead>
<tr>
<th>Zone number</th>
<th>Zone code</th>
<th>Zone name</th>
<th>Hourly and/or annual limit value notified</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CZ010</td>
<td>Praha</td>
<td>h/a</td>
</tr>
<tr>
<td>2</td>
<td>CZ042</td>
<td>Ústecký kraj</td>
<td>a</td>
</tr>
<tr>
<td>3</td>
<td>CZ080</td>
<td>Moravskoslezský</td>
<td>a</td>
</tr>
<tr>
<td>4</td>
<td>CZ0642</td>
<td>Brno</td>
<td>a</td>
</tr>
</tbody>
</table>