COMMISSION DECISION

of 6.3.2014

on the resubmission by the Federal Republic of Germany of a postponement of the deadline for attaining the limit values for NO₂ in one air quality zone (Mönchengladbach)

(Only the German text is authentic)
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deadline for attaining the limit values for NO\textsubscript{2} in one air quality zone
(Mönchengladbach)

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THE EUROPEAN COMMISSION,

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

May 2008 on ambient air quality and cleaner air for Europe\textsuperscript{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\textsuperscript{2}.

(2) The Federal Republic of Germany submitted to the Commission by letter registered on
7 October 2011 a notification of a postpone ment under Article 22(1) of Directive
2008/50/EC of the deadline for attaining the annual limit value for NO\textsubscript{2} in 57 air
quality zones including DEZJXX0013A (Mönchengladbach) and for attaining the
hourly limit value for NO\textsubscript{2} in 4 air quality zones.

(3) The notification was 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\textsuperscript{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\textsubscript{2} under Directive 2008/50/EC\textsuperscript{4}. The notification was submitted
using the forms set out in the Staff Working Paper\textsuperscript{5} that accompanied the
Communication.

(4) By Decision of 20 February 2013 C(2013)900 final the Commission raised objections
as regards the zone of Mönchengladbach (identified as zone 39 in the Annex to the
Commission Decision) based on the following grounds: "the German authorities
indicate that the NO\textsubscript{2} annual average in 2015 is expected to remain above the
permitted 40µg/m\textsuperscript{3} at the location of the exceedance situations, despite the

\textsuperscript{2} OJ L 163, 29.6.1999, p.41.
\textsuperscript{3} COM(2008)403
\textsuperscript{4} SEC(2011)300
\textsuperscript{5} SEC(2008)2132
implementation of existing and additional measures. As a result the Commission 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 2015" and "No air quality plans were provided for the exceedance situations in zones 37, 39 and 40 (...) As regards zones 37 and 39-41, the Commission therefore considers that the German authorities have not provided all relevant information necessary for the Commission to assess the notification".

(5) The Federal Republic of Germany notified the Commission again, by letter registered on 3 June 2013, its intention to postpone the deadline with regard to the above air quality zone (Mönchengladbach).

(6) The new information submitted by the German authorities as regards the air quality zone of Mönchengladbach shows that the compliance gap in 2010 was 11 µg/m³ concerning the annual mean, while the hourly limit values were never exceeded since their entry into force. In the above resubmission, the German authorities indicate that an air quality plan was adopted in 2012 and that the projected concentrations in 2015 are below the limit value.

(7) In their resubmission, the German authorities have provided data for the year 2009 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 notified zones. The Commission finds that the year 2009 is a relevant year to be used as basis for the assessment.

(8) The German resubmission is accompanied by an air quality plans that fulfils the requirements provided for in Section A of Annex XV of Directive 2008/50/EC.

(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 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 German authorities for this zone is complete for all scales. The German authorities have identified traffic as the main source contributing to the high NO₂ concentration levels at the local level. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the German authorities gives a relevant and reasonable basis for the assessment.

(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 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.

(12) According to the information submitted by the German authorities, exceedances triggering an obligation to take abatement action with regard to NO₂ concentrations were recorded for the first time in the year 2009, that is very close to the initial attainment deadline.

(13) The German authorities have provided data on projected NO₂ concentration levels in 2015 that seem reasonable and realistic. Effective measures addressing the main NO₂ pollution sources have been established. The Commission therefore finds that it is likely that compliance with the annual NO₂ limit value can be achieved by 1 January 2015.
The Commission is satisfied that the German authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC.

Against that background, the Commission finds that no objections should be raised against the postponement of the deadline for attaining the annual limit value for NO₂ until 1 January 2015 in the zone covered by this Decision, in the light of the new information submitted by the German authorities.

During the postponement period the annual limit value for NO₂ 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, the Federal Republic of Germany should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the annual NO₂ limit value plus the maximum margin of tolerance.

The postponement should apply to the air quality zone as it was defined in the reference year 2009. In order to ensure that the postponement applies to the territory as defined in this Decision, any changes to the delimitation of the zone during the postponement period should be subject to prior approval by the Commission.

HAS ADOPTED THIS DECISION:

**Article 1**

No objections are raised to the postponement of the deadline for attaining the annual limit value for NO₂ set out in Annex XI to Directive 2008/50/EC in zone DEZJXX0013A (Mönchengladbach). The postponement shall apply until 1 January 2015.

**Article 2**

1. The Federal Republic of Germany shall, for each calendar year until the date of expiry of the postponement period, provide the Commission with data indicating that the concentration levels are below the annual limit value for NO₂ 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 of 12 December 2011.

2. The Federal Republic of Germany 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 NO₂ set out in Annex XI to Directive 2008/50/EC has been achieved.

3. Changes to the delimitation of the air quality zone covered by this Decision 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.

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6 OJ L 335, of 17/12/2011
Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 6.3.2014

For the Commission
Janez POTOČNIK
Member of the Commission