



Brussels, 4.8.2014
C(2014) 5441 final

COMMISSION DECISION

of 4.8.2014

**on the resubmission by the Federal Republic of Germany of a postponement of the
deadline for attaining the limit values for NO₂ in five air quality zones**

(Only the German 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) The Federal Republic of Germany submitted to the Commission by letter registered on 7 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 in 57 air quality zones and for attaining the hourly limit value for NO₂ 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 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 using the forms set out in the Staff Working Paper⁵ that accompanied the Communication.
- (4) By Decision of 20 February 2013 C(2013)900 final the Commission raised objections as regards a number of air quality zones, including the five zones covered by this Decision and precisely: DEZBXX0001A (Ballungsraum Berlin) in Berlin; DEZJXX0010A (Bielefeld) in Nordrhein-Westfalen; DEZKXX0004S (Koblenz/Neuwied); DEZKXX0006S (Mainz); DEZKXX0007S (Worms/Frankenthal/Ludwigshafen) in Rheinland-Pfalz.

¹ OJ L 152, 11.6.2008, p.1.

² OJ L 163, 29.6.1999, p.41.

³ COM(2008)403

⁴ SEC(2011)300

⁵ SEC(2008)2132

- (5) The Federal Republic of Germany notified the Commission again, by letter registered on 18 November 2013, its intention to postpone the deadline with regard to the annual NO₂ limit value in the above five air quality zones. Compared to the previous notification, this new submission included additional information and, in particular, updated air quality plans.
- (6) The new information submitted by the German authorities confirms that local and urban background traffic emissions are the dominant contributors causing the exceedance of the NO₂ annual limit value; to address such problems, some additional measures have been taken.
- (7) Article 22(1) of Directive 2008/50/EC allows postponement of the deadline for compliance by a maximum of five years on condition that an air quality plan is established and shall demonstrate that conformity will be achieved before the new deadline. The deadline for compliance with the NO₂ limit values was 1 January 2010 and the maximum postponement can therefore not go beyond 1 January 2015.
- (8) As regards zone DEZBXX0001A (Ballungsraum Berlin), the air quality plan fails to demonstrate that compliance will be achieved before the new deadline; compared to the annual limit value that is 40 µg/m³, the compliance gap was 20 µg/m³ in year 2012 and 23 µg/m³ in year 2013; such gap is unlikely to be met and the air quality plan itself projects non compliance in year 2015.
- (9) As regards zone DEZJXX0010A (Bielefeld), the compliance gap was 3 µg/m³ in year 2012 and 4 µg/m³ in 2013; an air quality plan entered into force on 27 January 2014 (i.e. after the resubmission of 18 November 2013), it was submitted as a draft but has been assessed for the purposes of this Decision; the plan forecasts compliance by 1 of January 2015 as a result of additional measures to be enforced in the future but it does not provide for a clear timetable for its concrete implementation.
- (10) As regards zone DEZKXX0004S (Koblenz/Neuwied), the compliance gap in year 2012 was 10 µg/m³ and 5 µg/m³ in 2013. The first quarter means (January - February - March) of the years 2012, 2013, 2014 show increasing concentrations (48 – 50 – 51 µg/m³). The Commission considers that the existing plan fails to demonstrate a decreasing trend and therefore finds that it is unlikely that compliance with the annual NO₂ limit value can be achieved by 1 January 2015 as required by Article 22(1) of the Directive.
- (11) As regards zone DEZKXX0006S (Mainz), the compliance gap was 16 µg/m³ in year 2012 and 18 µg/m³ in 2013, thereby showing an increasing trend. The additional report to the air quality plan of the German authorities⁶ (communicated on 25 November 2013, i.e. shortly after the resubmission of 18 November 2013) states that compliance cannot be reached by 2015 and is likely to be reached in 2018.
- (12) As regards zone DEZKXX0007S (Worms/Frankenthal/Ludwigshafen), the compliance gap was 9 µg/m³ in year 2012 and 7 µg/m³ in 2013, thereby showing a decreasing trend. However, no detailed projections and no well documented models have been provided in order to demonstrate that compliance can indeed be achieved before the new deadline, and the Commission considers that bridging the compliance gap in the few months left before 1 January 2015 was not sufficiently substantiated by the data provided.

⁶ "Sachstandsbericht zur Umsetzung der Maßnahmen des Luftreinhalteplans Mainz, Fortschreibung 2011-2015, Anpassung PM10-Feinstaub (Stand August 2013)"

- (13) Against that background, the Commission considers that the Member State concerned has failed to demonstrate that compliance will be achieved before the new deadline, and that objections should therefore be raised against the postponement of the deadline for attaining the annual limit value for NO₂ until 1 January 2015 in all the five zones covered by this Decision.

HAS ADOPTED THIS DECISION:

Article 1

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 the air quality zones DEZBXX0001A (Ballungsraum Berlin) in Berlin; DEZJXX0010A (Bielefeld) in Nordrhein-Westfalen; DEZKXX0004S (Koblenz/Neuwied); DEZKXX0006S (Mainz); DEZKXX0007S (Worms/Frankenthal/Ludwigshafen) in Rheinland-Pfalz.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 4.8.2014

For the Commission
Janez POTOČNIK
Member of the Commission