COMMISSION DECISION

of XXX

on the notification by the Kingdom of Spain of a postponement of the deadline for attaining the annual limit value for NO$_2$ in three air quality zones

(Only the Spanish 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 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) 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 Kingdom of Spain submitted to the Commission by letter registered on 5 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 NO\textsubscript{2} in 3 air quality zones listed in the Annex to this Decision (zone 1: ES0401 Palma, zone 2: ES0901 Area de Barcelona and zone 3: ES0902 Valles-Baix Llobregat).

(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 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

\textsuperscript{2} OJ L 163, 29.6.1999, p.41.
\textsuperscript{3} COM(2008)403
the limit values for NO$_2$ 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.

(5) The Commission identified certain relevant information as missing from the original notification and requested the Spanish authorities by letter dated 28 November 2011 to complete the notification. Since the Spanish authorities submitted essential additional information by letter dated 19 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. 20 December 2011.

(6) The Spanish 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 NO$_2$ annual limit value in all the notified zones. The Commission finds that the year 2010 is a relevant year to be used as basis for the assessment.

(7) The Spanish notification was accompanied by air quality plans for all zones. As regards zone 1, the plan dates from 2008 and is according to the Spanish authorities currently being updated. The air quality plan for zone 1 fulfils most of the requirements provided for in Section A of Annex XV to Directive 2008/50/EC but it lacks quantitative information on the observed effect of the measures implemented in the past and on the estimate of the planned improvement of air quality and of the expected time required to attain these objectives. It should be noted that a plan is considered as an air quality plan for the purposes of a notification pursuant to Article 22, if it has been formally endorsed by the competent authorities so that it constitutes a formal commitment to take the necessary abatement action with the view of ensuring compliance with the NO$_2$ limit values before the new attainment date. As regards zones 2 and 3, the Commission notes that the notification was accompanied by an updated air quality plan that fulfils all requirements provided for in Section A of Annex XV to Directive 2008/50/EC.

(8) In order to assess whether the conditions for the NO$_2$ 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.

(9) The Commission finds that the source apportionment provided by the Spanish authorities for all zones is complete for all scales. The Spanish authorities have identified traffic as the main source contributing to the high NO$_2$ concentration levels at the local and urban levels in all zones. In zone 2 off road machinery is also indicated at one of the exceedance situations as main source contributing at the local level to the high NO$_2$ concentration levels due to temporary construction works. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the Spanish authorities gives a relevant and reasonable basis for the assessment.

\textsuperscript{4} SEC(2011)300
\textsuperscript{5} SEC(2008)2132
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 the notified zone and whether relevant measures have been taken in relation to the identified sources.

According to the information submitted by the Spanish authorities, exceedances triggering an obligation to take abatement action with regard to NO\(_2\) concentrations were recorded for the first time in 2006 in zones 1 and 3 and in 2001 in zone 2. Air quality plans addressing the main relevant pollution sources were adopted before the initial attainment deadline in all the notified zones. The Spanish authorities explained that compliance in 2010 was initially expected in zone 1 as the zone had been below the limit value plus the relevant margin of tolerance from 2007 to 2009. As regards zones 2 and 3, the Spanish authorities explain that some of the transport related measures implemented before 2010 did not deliver as planned inter alia due to higher than expected real world NOx emissions and primary NO\(_2\) emissions of vehicles. The Commission notes that the time lapse to adapt the air quality plans to those new findings in order to reach compliance in 2010 was relatively short.

The Commission finds that it was likely that despite the abatement actions taken by the Spanish authorities conformity with the annual limit value for NO\(_2\) could not be achieved by 1 January 2010 in any of the notified zones.

In order to assess if compliance with the 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 Spanish authorities have requested the maximum permitted postponement for compliance with the annual limit value for NO\(_2\) in all 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 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.

As regards zone 1, the Spanish authorities state that compliance with the annual NO\(_2\) limit value will be reached by 1 January 2015. The Commission notes that the compliance gap is small (2\(\mu\)g/m\(^3\)) in that zone and that the maximum postponement of the deadline to 1 January 2015 might not be necessary. However in view of the lack of information on the impact of the measures and of projections of NO\(_2\) concentrations in 2015 which include the impact of those measures, as well as the lack of detailed information on the measures to be included in the updated air quality plan and the lack of a timetable for the implementation of those measures, the Commission finds that it cannot fully assess whether it is likely that compliance with the annual NO\(_2\) limit value can be reached by 1 January 2015 or earlier in zone 1.

As regards zones 2 and 3, the Spanish authorities have provided data on projected NO\(_2\) concentration levels in 2015 that seem reasonable and realistic. The notification
indicates that the \( \text{NO}_2 \) annual average in 2015 is expected to remain above the permitted 40µg/m³ at some of the exceedance situations in zones 2 and 3, despite the 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 in zones 2 and 3. The Commission therefore considers that it is not demonstrated that compliance will be achieved in zones 2 and 3 at the expiry of the maximum postponement period.

(18) The Commission notes, as regards the status of implementation of the Union legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, that the Kingdom of Spain has exceeded the 2010 national emission ceiling set for nitrogen oxides pursuant to Directive 2001/81/EC\(^6\). Compliance with the obligations under that Directive is important to ensure that the limit values under Directive 2008/50/EC, and in particular the limit values for \( \text{NO}_2 \), can be met both in the Kingdom of Spain and neighbouring Member States. The Commission therefore expects that the necessary effort is taken to achieve the national emissions ceilings.

(19) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the notification indicates that for zone 1 some measures i.e. "retrofitting emission control vehicles", some subcategories of "public procurement", "low emission fuels" and "permit systems and economic instruments" have not been considered because they show a low impact on emission levels in a high traffic environment. The Spanish authorities are invited to take also those measures into consideration when updating the air quality plan for zone 1. The Commission is satisfied that the Spanish authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC in zones 2 and 3.

(20) Against that background, the Commission finds that objections should be raised to the postponement of the deadline for attaining the annual limit value for \( \text{NO}_2 \) in all notified zones on the grounds that the Spanish authorities have not demonstrated that compliance with the annual limit value for \( \text{NO}_2 \) can be achieved by 1 January 2015 or earlier in those zones.

HAS ADOPTED THIS DECISION:

**Article 1**

Objections are raised to the notification by the Kingdom of Spain of a postponement of the deadline for attaining the annual limit value for \( \text{NO}_2 \) set out in Annex XI to Directive 2008/50/EC in zones 1-3 as specified in the Annex to this Decision.

**Article 2**

This Decision is addressed to the Kingdom of Spain.

\(^6\) OJ L 309, 27.11.2001, p. 22.
Done at Brussels,

For the Commission
Janez Potočnik
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>ES0401</td>
<td>Palma</td>
<td>a</td>
</tr>
<tr>
<td>2</td>
<td>ES0901</td>
<td>Area de Barcelona</td>
<td>a</td>
</tr>
<tr>
<td>3</td>
<td>ES0902</td>
<td>Valles-Baix Llobregat</td>
<td>a</td>
</tr>
</tbody>
</table>