COMMISSION DECISION

of XXX

on the notification by the Kingdom of Spain of a postponement of the deadline for attaining the limit values for NO₂ in three air quality zones

(Only the Spanish text is authentic)
COMMISSION DECISION


on the notification by the Kingdom of Spain of a postponement of the deadline for attaining the limit values for NO₂ in three air quality zones

(Only the Spanish 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 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 Kingdom of Spain submitted to the Commission by letter registered on 28 December 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 three zones: ES0118 Granada (hereinafter: zone 1); ES1308 Henares corridor (hereinafter: zone 2) and ES1309 South Urban Madrid (hereinafter: zone 3).

(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

---

³ COM(2008)403
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.

(5) The Commission identified certain relevant information as missing from the original notification and requested the Spanish authorities by letter dated 16 February 2012 to complete the notification. Since the Spanish authorities submitted essential additional information by letters registered on 8 and 16 March 2012, the period for the Commission’s assessment of the notification starts from the date of official receipt of that information.

(6) The Spanish 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 as regards zones 2 and 3. However, as regards zone 1, the notification data refer to year 2009. The Commission finds that since the notification was submitted after the initial deadline for attainment, 2010 should be used as reference and base year. Nevertheless, the Commission acknowledges that in this zone only minor changes in NO\textsubscript{2} levels were observed between 2009 and 2010. Therefore, the Commission finds that the use of the year 2009 as reference and base year enables the Commission to carry out at least a partial assessment of whether the conditions for a postponement of the deadline are met.

(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 Spanish 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. Compliance is projected for 2014 as regards zones 2 and 3 while for zone 1 compliance is projected for 2015.

(9) In order to assess if conformity with the limit values for NO\textsubscript{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 limit value in zones 2 and 3 was reported in 2007, while for zone 1 the first exceedance was reported in 2009. An air quality programme covering NO\textsubscript{2} was established for zones 2 and 3 in 2007 and for zone 1 in 2009. Taking into account the fact that the first exceedances in zone 1 were recorded close to the 2010 attainment date, it is reasonable to assume that, as regards zone 1, compliance would not have been possible by 2010. As regards zones 2 and 3, the Spanish authorities expected compliance in 2010, sources were addressed proportionally and measures were taken to address the compliance gap, but, as explained in the notification, the impact of traffic emissions proved higher than expected. As a result,
the Commission finds therefore that it was likely that conformity with the respective limit value for NO\textsubscript{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\textsubscript{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.

(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 zones 2 and 3, the Spanish authorities have provided data on projected NO\textsubscript{2} 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 the current compliance gap and the estimated effect of the planned measures. The measures taken to address the main sources of NO\textsubscript{2} 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.

(14) As regards zone 1, the notification projects compliance for 2015 based on the compliance gap recorded in 2009 (5 \(\mu g/m^3\)) and the estimated impact of the planned measures, which would allow a reduction of 5 \(\mu g/m^3\) in the concentration levels. However, according to the annual questionnaire submitted by the Spanish authorities for the year 2010, the compliance gap in 2010 was bigger (7 \(\mu g/m^3\)). Therefore the Commission finds that the Kingdom of Spain has not fully demonstrated that compliance will be achieved in 2015. In order to ensure that the above condition is fully met, the Kingdom of Spain should adjust the relevant air quality plans as appropriate. The adjusted plans should be notified to the Commission as soon as possible, taking into account the time-scale necessary to carry out the national procedures to amend the plans without undue delay.

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

(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 NO\textsubscript{2} by 1 January 2014 in zones 2 and 3 and by 1 January 2015 in zone 1.

(17) During the postponement period the limit values for NO\textsubscript{2} 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 Kingdom of Spain should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the annual NO\textsubscript{2} limit value plus the maximum margin of tolerance in the zones covered by this Decision.
The postponement should apply to the air quality zones 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 limit values for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zones 2 and 3 specified in the Annex to this Decision. The postponement shall apply until 31 December 2013.

2. No objections are raised to the postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} in zone 1, provided that the relevant air quality plans are adjusted with a view to ensuring that compliance with the annual limit value for NO\textsubscript{2} is achieved as from 1 January 2015. The adjusted plans shall be notified to the Commission as soon as possible, taking into account the time-scale necessary to carry out the national procedures to amend the plans or adopt the short-term action plan without undue delay.

**Article 2**

1. The Kingdom of Spain 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 Kingdom of Spain 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 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.

\textsuperscript{6} OJ L 156, 30.4.2004, p.84.
Article 3

This Decision is addressed to the Kingdom of Spain.

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 (h) and/or annual (a) limit value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ES0118</td>
<td>Granada</td>
<td>a</td>
</tr>
<tr>
<td>2</td>
<td>ES1308</td>
<td>Henares corridor</td>
<td>a</td>
</tr>
<tr>
<td>3</td>
<td>ES1309</td>
<td>South Urban Madrid</td>
<td>a</td>
</tr>
</tbody>
</table>