



EUROPEAN COMMISSION

Brussels, **XXX**
[...] (2012) **XXX**

COMMISSION DECISION

of **XXX**

on the notification by Hungary of a postponement for attaining the deadline for the limit value for NO₂ in two air quality zones

(Only the Hungarian text is authentic)

COMMISSION DECISION

of 5.9.2012

on the notification by Hungary of a postponement for attaining the deadline for the limit value for NO₂ in two air quality zones

(Only the Hungarian 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 deadlines until 2015 at the latest by which conformity with the limit values for NO₂ shall be achieved if it demonstrates that conformity with the limit values could not have been achieved by 1 January 2010 and an air quality plan demonstrating how compliance will be achieved before the expiry of the new deadline is established.
- (3) Hungary notified the Commission by letter registered on 28 October 2011, of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the annual limit value for NO₂ in two air quality zones (Budapest and Pécs). The relevant zones are listed in the Annex to this Decision.
- (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 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.

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 Commission identified certain relevant information as missing from the original notification and requested the Hungarian authorities by letter dated 18 November 2011 to complete the notification. Since the Hungarian authorities submitted essential additional information by e-mail dated 2 December 2011 and letter dated 9 January 2012 the period for the Commission's assessment of the notification starts from the day following the date of official receipt of the letter dated 9 January 2012.
- (6) The Hungarian authorities have provided data for the year 2010 to be used as reference year and the basis for the assessment of the NO₂ postponement in zones 1 (Budapest) and zone 2 (Pécs). The Commission finds that the year 2010 is an appropriate reference year since the notification was submitted after the initial deadline for attainment of the NO₂ limit values.
- (7) The Hungarian notification was accompanied by air quality plans that fulfil the requirements provided for in Section A of Annex XV to Directive 2008/50/EC for both zones.
- (8) In order to assess whether the conditions for NO₂ postponements 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 Hungarian authorities for both zones is complete for all scales. Hungarian authorities have identified traffic and commercial and residential sources as the main sources contributing to the high NO₂ concentration levels at the local and urban level in both zones.
- (10) 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 zone and whether relevant measures have been taken in relation to the identified sources.
- (11) The first recorded annual exceedance triggering an obligation to take abatement action with regard to NO₂ concentrations was reported in 2005 for zone 1 and in 2007 for zone 2. The air quality plan for zone 1 was established in 2004 and for zone 2 in 2003. Air quality plans for both zones have been recently updated in 2011. Non-compliance with the applicable annual limit value for NO₂ was then also recorded in 2005-2008 and 2010 in zone 1 and in 2005, 2007 and 2010 in zone 2, while compliance was achieved in 2009 in zone 1 and in 2006, 2008 and 2009 in zone 2.
- (12) The Commission notes that the relevant pollution sources have been addressed in both zones. However, according to the Hungarian authorities, due to the increased traffic as well as adverse climatic conditions in 2010 in zone 1 and the increased heavy duty traffic and construction works in zone 2, it was not possible to achieve the annual limit value for NO₂ by the initial deadline in these zones. As regards zone 1, the Commission considers that, even though compliance with the annual limit value for NO₂ was reached in 2009 in zone 1 and in the years 2006, 2008 and 2009 in zone 2, a considerable compliance gap in the years with exceedance of NO₂ limit value and the fact that the NO₂ concentration levels varied significantly in different years in both zones, it appears likely that despite the abatement actions taken in zone 1 and zone 2, conformity with the annual limit value for NO₂ could not be achieved by 1 January 2010 in these zones.

- (13) In order to assess if compliance with the limit value for NO₂ 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 the additional measures proposed to ensure compliance in the air quality plan accompanying the notification.
- (14) The Commission notes that the Hungarian authorities have requested the maximum permitted postponement until 1 January 2015 for compliance with the annual limit value for NO₂ in both zones. Given the impacts on public health, the duration of any postponement must be restricted to what is absolutely necessary. An assessment should be made therefore of whether compliance can be achieved earlier than the deadline proposed in the notification.
- (15) 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.
- (16) The Hungarian authorities have submitted information for both zones on a number of measures addressing the main sources and on the impacts of some of the measures. However, some measures are planned for later than 2015. For instance, a low emission zone in zone 1 is foreseen for implementation in 2018 and no justification is provided that earlier introduction of this measure is not possible. Also, the data provided by the Hungarian authorities for both zones on the projected NO₂ concentration levels in 2015 is not sufficiently substantiated, as no background information on how the concentration value was calculated has been submitted for any of the zones. Therefore, the Commission finds that it cannot assess, on the basis of the information available, whether the proposed abatement actions are sufficient for achieving compliance with the NO₂ limit value by 2015 or earlier in zones 1 and 2.
- (17) The Commission is satisfied that the implementation by Hungary of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC does not give rise to concerns that could have a significant negative impact on the assessment of whether compliance can be achieved by the new attainment deadline.
- (18) The Commission is satisfied that the Hungarian authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC in both zones.
- (19) Against this background, the Commission finds that objections should be raised against the postponement until 1 January 2015 of the application of the annual limit value for NO₂ in zones 1 and 2 on the grounds that it has not been demonstrated that compliance with the annual limit value can be achieved by 1 January 2015 at the latest in zones 1 and 2.

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised to the postponement by Hungary of the deadline for attaining the annual limit value for NO₂ set out in Annex XI to Directive 2008/50/EC in zones 1 and 2.

Article 2

This Decision is addressed to Hungary.

Done at Brussels,

For the Commission
Janez POTOČNIK
Member of the Commission

ANNEX

Zones and agglomerations covered by the notification.

Zone number	Zone code	Zone name	Hourly (h) and/or annual (a) limit value for NO₂
1	HU0001	Budapest	a
2	HU0006	Pécs	a